I am deeply concerned that the disruptions and demoralization caused by these administrative actions will result in serious diminution and perhaps elimination of such essential legal services representing the interests of the poor. I can see no purpose in Acting OEO Director Phillips' recent actions other than that of creating sufficient havoc so as to prohibit effective program operation during the spring, while the continued dismantling of OEO is underway. Accordingly, I have joined other members of the New York delegation in writing to President Nixon, urging his intervention in ceasing the burdensome and unnecessary requirements being imposed on CALS by the national office of OEO.

In addition, I am cosponsoring legislation which would provide a procedure by which Congress can overrule the President's actions in impounding such congressionally appropriated funds as are presently being withheld from OEO. This is an extremely important issue, and I hope the Congress will consider it as a matter of first priority.

SENATE—*Wednesday, February 28, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

Dr. Lawrence P. Fitzpatrick, National Chaplain, 1972–73, the American Legion, Coin, Iowa, offered the following prayer:

Almighty God, Father of us all, we pause at this time to acknowledge that we are Your children. Help us to become truly aware of the responsibilities that go with a seat in this Chamber. Make us awaken to the fact that we must put people before party; that men and women look to us for needed help; that children are waiting for us to free them from their shackles.

Keep us from the sin of administrivia; free us from temptations that waste our time; release us from all vices that prevent the fulfilling of our duties.

Finally, O God of mercy, direct our thoughts, actions, and words today that when we prepare for our night of rest we may look back and know that we have done our best this day for God and country. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 28, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bill in which it requests the concurrence of the Senate:

H.R. 3577. An act to provide an extension of the interest equalization tax, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 3577) to provide an extension of the interest equalization tax, and for other purposes, was read twice by its title and referred to the Committee on Finance.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 27, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Lt. Gen. Robert E. Pursley, to be lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Lt. Gen. Louis Metzger, to be a lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Army and in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

LEST WE FORGET

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an article entitled "The Vets: Heroes as Orphans" and an article entitled "The Permanent War Prisoners," both published in News-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

week magazine for March 5, 1973, be printed in the RECORD.

I would point out that in the article entitled "The Permanent War Prisoners," the following comment is, I think, noteworthy, one which we should never forget:

There are 25,000 paraplegics, quadriplegics, men disassembled and totally disabled by the frags, mines, and bullets of the Vietnam war—and they have filled up veterans' hospitals throughout the country.

So I would hope that we would keep in mind these men who have sacrificed so much, who have paid such a high price, in our consideration of the veterans of the Vietnamese war and the treatment which we should accord to them in the months and years ahead.

The PRESIDING OFFICER. Without objection, the articles will be printed in the RECORD.

The articles ordered to be printed in the RECORD are as follows:

THE PERMANENT WAR PRISONERS

There are 25,000 of them—paraplegics, quadriplegics, men disassembled and totally disabled by the frags, mines and bullets of the Vietnam war—and they have filled up veterans' hospitals throughout the country. In the midst of the euphoric homecoming of the prisoners of war, NEWSWEEK's Malcolm MacPherson talked with patients at the Spinal Cord Injury Center at the VA hospital in Long Beach, Calif. His report:

"When I saw them come home, I cried," said Max Inglett, 26, a Sp/5 wounded during a mortar attack a year ago. "I cried out of self-pity. I remember getting off the plane when I returned, and nobody met me. I envy the prisoners because they can walk. They were prisoners for five years and eight years, but I'm a prisoner within myself because I'm a prisoner in this," he said, tapping the side of his wheelchair. "You cry inside when you go to Disneyland and can't take the rides. You cry when you take your girl dancing, and other guys see you're in a wheelchair and they ask your girl to dance. You don't want to ruin her fun, but it rips you up inside."

Inglett was an aspiring ventriloquist before he signed up for the first of his two hitches in Indochina (he re-upped because "everything here seemed so empty, no one cared what was going on"), and most of his hopes rest with his dummy, Ozzie O'Sullivan, which sits blank-eyed in a chair near Inglett's bed. He can imitate 23 celebrities ("Like a Negro doctor starting out, I've got to do an extra-good job to make people accept me") and will try to make it as a pro when he leaves the hospital next month. "I'm determined to make the point that we are human, not a cop-out," he said.

Like many other paralyzed vets, Inglett will have to rebuild his life mostly on his own. "Most guys who get hurt, their families disown them," he said. "Mine did. We are a burden. 'Don't scratch the furniture,' they say." And it is extremely difficult to find a girl. "It takes an exceptional woman to accept us," Inglett said, matter-of-factly.

Lawrence Meneses, 24, a Mexican-American from Sacramento who was paralyzed in 1969 by a bullet from a strafing U.S. plane, drifted into drugs after he left the Long Beach hospital for the first time three years ago. "I'd ask people to do things for me, and they'd tell me to do them for myself," he recalled. "But they didn't understand that doing them wasn't easy for me. They should do things for me, I thought at the time." Meneses was quickly married and quickly separated after his first hospital tour, then found himself back in Long Beach last July after getting involved in the drug scene. "It doesn't do much good to be mad at the world," he said quietly.

Carl Westenberg, 28, a former lieutenant in the Special Forces, lifts weights three days a week in the physical-therapy room at Long Beach. Before Vietnam—and before an army truck rolled over on him—he was a sky diver, scuba diver and motorcycle freak; his relationship with his wife, to whom he is still married, was based on a shared passion for outdoor sports. "I'm going to do a lifetime of this," he said, pushing an iron barbell over his head. "The prisoners of war only had eight years of it. But I don't have any hard feelings about anyone who got out of that war in good shape."

"HIT"

Terry Holder, 25, a Marine Corps lance corporal, was wounded on patrol in August 1969. "About five minutes after I was hit, I knew I was paralyzed," he recalled. "After they'd taken the bullet out, a solemn Navy doctor said, "Terry, it looks like you will be paralyzed for the rest of your life."

" 'Is that all?' I asked. He looked at me stunned.

" 'Is that all? Am I going to live?' When the doctor nodded yes, I told him that's all I needed to know. I adjusted to the fact so quickly that they sent me to a psychiatrist to find out if I was okay."

Far from feeling any bitterness toward the heralded POWs, Holder seems to hope they take everything they can get from the government and the American people—tax windfalls, flowers, cars, the lot. "Anyone who came back from that unpopular war deserved that reception," he said, "though I haven't exactly had a rear admiral hug me. As a paraplegic you get used to going in back doors or through kitchens. It's not exactly fun or good for the ego. It makes you feel discriminated against. And it is that exactly—discrimination."

THE VETS: HEROES AS ORPHANS

(Suitable jobs are to be reserved—I repeat, reserved—for Vietnam veterans . . . Official policy has been established that while waiting for work they will receive the same salary they got in service . . . Professional and specialist schools must reserve places for wounded veterans . . . and logjams must be cleared by opening new classes . . . Enterprises set up by veterans are to get extra state aid . . . and loans at the lowest interest rate . . . Children of dead or wounded veterans are to receive educational privileges and special attention throughout their schooling.)

It sounds like a somewhat rosier later-day version of the sort of grateful compensation that the U.S. lavished on its returning soldiers after World War II and Korea. But this statement of "official policy" happens to be North Vietnam's, not America's—and so is its resolute spirit. At a time when much of the nation—and much of the Federal publicity apparatus—is hailing the return of U.S. prisoners of war with warm oratory and hot cash, some 3 million ordinary Vietnam vets are hoeing a tougher row than their counterparts from any American war in this century. Revised Veterans Administration budgets, computer foul-ups, inadequate training and rehabilitation programs, a sluggish job market—all have combined to make thousands of Vietnam vets feel more like war orphans than heroes, and to give Congress and the President one more bone to pick in their looming fiscal showdown.

In Washington last week, there was more skirmishing over veterans' affairs than at any time since the bonus march of 1932. The Senate Veterans Affairs Committee reported out two bills—one on national cemeteries and one on expanded medical benefits—identical to measures that had been pocket-vetoed by Mr. Nixon last year, plus a third on drug treatment that had got lost in the House-Senate conference committee at adjournment. An organization called the National Association of Collegiate Veterans filed suit to shake loose $25 million in veterans' educational funds held back by the Administration. And rumors continued to insist that VA Administrator Donald E. Johnson—an Iowa feed-grain dealer and past national commander of the American Legion—would be forced out by the pressure of veterans' discontent, particularly from such older groups as the Veterans of Foreign Wars.

At the core of the fight was the Administration's attempt to reorganize and contain the $12.5 billion in annual veterans' programs—by refusing, for example, to spend an extra $103 million on extended VA medical benefits which would include such new tasks as maternity and child care for veterans' families. What few objectives experts could be found on the subject seemed to believe that the Administration's proposed total outlays for Vietnam vets would compare well enough in most areas (one notable exception was higher education) with those for World War II and Korean GI's. But veterans' protests and inept Administration lobbying have combined to give the reshuffle the appearance of betrayal.

According to a revised VA schedule of disability payments, 300,000 disabled veterans were to receive added benefits at an extra yearly cost of $186 million. But the VA's Johnson touted the plan to Congress as a means of cutting benefits to 200,000 less-disabled veterans and saving $160 million—a half-truth at best, and one that outraged so many veterans' spokesmen that the whole reorganization is in trouble.

Whether this high-level bureaucratic tango means very much to the ex-grunts in the city streets is another question. Generally poorer, darker-skinned and less adaptable than the dogfaces of earlier wars, they have returned home to find their service skills unsalable and the roads to improvement rutty. College admissions officers offer tepid welcomes—especially now that the U.S. no longer pays full tuition—and VA training and job-referral services are only spottily effective. Some 50,000 to 100,000 ex-grunts have had either to kick a heroin habit or to try to live with it. Computer trouble often delays their subsistence or disability checks. For thousands of vets, Federal programs are neither good nor bad but merely irrelevant:

Max Gonzalez joined the Army at 17 to escape the East Harlem drug scene—and ran straight into the Vietnamese drug scene. Though he won the Bronze Star, two Purple Hearts and a promotion to sergeant, he was strung far out on heroin for the whole fifteen months he was there. "No one cared, either," he says, "as long as you went out to get shot up." Reassigned to Germany, he arrived with $527 in his pocket and "shot it all up in six or seven days." He re-enlisted for a year in Vietnam to be close to his supply, then returned home to a career of "boosting cars, robbing apartments and doing stick-ups." Gonzalez was arrested five times before he joined a methadone program in the Bronx. "The Army doesn't care, and the VA doesn't care either," he says bitterly. "All they think you are is another statistic."

David Reeves graduated with a degree in business administration from Atlanta's Morehouse College, Martin Luther King's alma mater, and went to Vietnam as one of the first black Marine officers. Today, at 28, he is working as captain of the banquet room at the Marriott Hotel in Atlanta. "I'm not ashamed of what I'm doing," he says, "but I really have no place to go as captain over a group of waiters. I looked hard for the good jobs. But I kept getting that old routine, 'Son, you just don't have enough experience for the business community.' I'm a little resentful of being told that all that leadership

training would some day pay off." Still, Reeves is better off than most of his brothers. A public hearing last month disclosed that more than a third of the states' recently returned Vietnam vets are earning less than $3,000 a year.

Donald Watson left Detroit to see the world and for thirteen months saw Vietnam as a combat infantryman, picking up a drug habit on his way into the jungle. On his return, honorably discharged but still addicted, he kicked heroin during a three-month stay in Wayne County jail, then enrolled in the drug program at the VA hospital in Battle Creek. Now 25, married and the father of a small child, he is living with relatives and recently found a factory job through a voluntary group called the Veteran's Referral Service. Operating out of a cubbyhole, VRS has found more than 800 jobs for Detroit-area vets since October, as well as helping out on housing, record procurement and college admission. The key to VRS's troubleshooting success is its "good-guy list" of government, corporate and academic bureaucrats who actually get things done; only two VA employees made the list.

Joe DePrimo, 25, returned from Vietnam with a Bronze Star and worked his way through New York's Richmond College with the help of GI benefits and part-time jobs. Two and a half months after earning his B.A. in psychology, he is still looking for work. "I nickeled-and-dimed it all through college," says DePrimo, the first in his family to get a degree. "More than once I shot straight through the toll booths on the bridge because I didn't have the money. I must have been to twenty agencies looking for a job. They just laughed when I showed them my degree. And when I said I was a vet, they laughed even harder. Now when I go out for jobs, I don't even put down that I was a vet. People think you're a time bomb or an addict."

Bleak as the situation is, some of those concerned with veterans' affairs think that the worst of the dismal swamp is past. In the swelling economic boom, unemployment among ex-grunts has dropped from 7.8 per cent in late '71 to 5.6 per cent at the end of '72—slightly lower than the rate for non-vets between the ages of 20 and 29. There are indications that the Nixon Administration plans to put pressure on private universities to step up their recruiting of veterans. But many of the vets who have found jobs are working below their capacity, and college recruiting efforts—like many other programs for veterans—are irrelevant to the poor and undereducated men who are the neediest veterans of Vietnam. Congress may yet prevail over Mr. Nixon in the fight for more money and bigger programs, but most of the programs were designed in the classic style of military thinking: to meet the needs of some other war.

MR. NIXON'S GREATEST ACHIEVEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an article entitled "Mr. Nixon's Greatest Achievement," written by Joseph C. Harsch, and published in the Christian Science Monitor of February 27, 1973, be printed in the RECORD. I understand that Mr. Harsch is now the chief of the editorial page of the Christian Science Monitor. In my opinion, he is one of the truly outstanding commentators in this country.

Before the Chair rules, I should like to read from the commentary, as follows:

But is communism in China an ideology or a new form of Chinese nationalism tailored to the needs of today's China? It is peculiarly Chinese and doesn't seem to travel well. It has no visible export market.

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

MR. NIXON'S GREATEST ACHIEVEMENT

(By Joseph C. Harsch)

Long years from now when some wise historian who is untouched by any of the partisan emotions of these days sits down to do a study of the Nixon presidency he well may, I submit, conclude that Richard Nixon's single biggest achievement was in dispelling a great and gnawing fear.

The fear has been that if the political leaders of the Western world came to terms with foreign communism they would, thereby, open the floodgates and admit it to their own countries with disastrous results.

FRATERNIZING

That fear is, of course, not entirely dispelled. Mr. Nixon's foreign policies, particularly his "opening to China," are still profoundly distrusted on the far political right. Quite correctly, far right spokesmen and pamphleteers accuse Mr. Nixon of fraternizing with foreign Communists. He is. And to his critics of the far right this is improper and dangerous for the old, old reason it might help the spread of Communist ideology in the Western world.

Probably there will long be a few residual pools of such fear. And, conceivably, those who nourish the fear may some day be vindicated by events. No one can prove today that the fear is entirely unjustified. But the weight of present evidence is heavily on the other side.

As President of the United States, Richard Nixon has become a most welcome visitor within the precincts of the old Imperial Palace in Peking. He is equally welcome in Moscow; indeed, the Soviet Government did all it could to aid his recent reelection to the presidency.

RADICAL DEPARTURE

In other words, to a degree inconceivable to his predecessors, Richard Nixon has dignified and legitimized the Communist governments which preside today in Peking and Moscow. He, the head of the most powerful non-Communist state in the world, treats the regimes of Peking and Moscow not as usurper regimes, but as the actual and right and proper governments of the two other greatest powers in the world.

And what are the results inside the countries of the Western world of this radical departure from the past? Is communism itself or any other form of more modern social radicalism rampant? Quite the contrary. Not in a long time has conservatism been so vigorous and even dominant in most of the Western countries.

Britain has a Tory Prime Minister. France is under the firm control of Charles de Gaulle's chosen successor. The United States is under Richard Nixon. Japan is run, de facto, by its leading industrialists and bankers working through politicians of their choice. In all these countries the streets are relatively quiet (except for rampant crime in American streets due largely to the political power of the gun makers).

NO EXPORT

Communism, at least for the moment, is recessive and fragmented. It bores the young. It has long since disenchanted the old. It has failed, spectacularly, to solve Russia's economic problems. It has failed to bridge national rivalries between Russia and China. True, a schismatic variety has proved useful to the Chinese. China appears to be more united and more successfully progressive today than ever before since the collapse of the Manchu dynasty. But is communism in China an ideology or a new form of Chinese nationalism tailored to the needs of today's China? It is peculiarly Chinese and doesn't seem to travel well. It has no visible export market.

Which means that Mr. Nixon has recognized foreign Communist countries with no perceivable resulting disasters in Western countries. It's quite an achievement.

FBI DIRECTOR L. PATRICK GRAY MAKES MATERIAL AVAILABLE TO SENATORS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania desire to be recognized?

Mr. SCOTT of Pennsylvania. Yes, Mr. President.

A few minutes ago, Mr. L. Patrick Gray, testifying before the Senate Committee on the Judiciary on his nomination by the President to be Director of the Federal Bureau of Investigation, made an offer which deserves wide public attention.

Mr. Gray offered to disclose, for the first time in history, the complete investigative material having to do with a matter in the jurisdiction of the FBI. He offered to disclose to any Senator all the material from the entire investigation conducted by the FBI pertaining to the so-called Watergate affair, from the moment of its inception to the present, with the sole understanding that a member of the FBI be present when these very sensitive documents are examined, and limiting the offer to Senators only.

Perhaps to avoid the untold effects of the raw material, it might have been better had the offer been limited to the Judiciary Committee. Mr. Gray, however, has made this offer in an effort to make it absolutely clear that the FBI—and this is not to be regarded as a precedent for any other case—is anxious to let the American people know that this matter has been thoroughly investigated, and let the chips fall where they may. Therefore, I commend the Acting Director for his decision.

I hope that the offer will be accepted in the spirit in which it is made, and that Senators will not act out of sheer curiosity, but only to demonstrate that they are really concerned about involving themselves in this affair so as to inform themselves to the fullest.

The important thing is that the FBI has announced to the public and to the Senate that this investigation is entirely on the level. They want it understood fully by every Senator that if there is anything that has not been revealed heretofore, it will be.

This is a wholesome development; I am glad that it is taking place.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. I am delighted with this news. It is just another indication—at least, I hope it will be—that so far as the investigation by a bipartisan Senate committee of the Watergate affair is concerned—and I have stated this many times—it will not turn into a witch hunt. Its political implications, in my opinion,

are of considerably lesser degree than are the constitutional implications involved. I agree with the statement by the distinguished minority leader to the effect that, so far as he was concerned—and I assume he speaks for the administration as well—he wanted the "chips to fall where they may."

So I think this is a good start, and the sooner all the matter pertaining to Watergate is laid on the record, the better it will be for all concerned, because I think the air will be cleared.

But again I want to repeat: I, for one, am not in favor of a witch hunt. I, for one, do not look upon this as primarily a political issue. But I do think it is a constitutional issue, and because of that, the matter has to be gone into, and in that way the atmosphere cleared.

Mr. SCOTT of Pennsylvania. I thank the distinguished majority leader for his very responsible statement.

There is no question that every Member of the Senate voted for this investigation. That indicates exactly how we feel about it. I agree that it should not be a witch hunt. It should be an on-the-level, complete, thorough, exhaustive investigation, so that we can put behind us, once and for all, an unfortunate chapter in American political history.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

FAILURE OF ELECTRIC POWER IN THE ROTUNDA

Mr. MANSFIELD. Mr. President, I think the distinguished minority leader may have an interest in what I am about to say.

It is my understanding that six Senators, of both parties, arranged for a press conference in the rotunda of the Capitol this morning and that, for some reason not ascertained at the moment, the electric power was turned off. It is my understanding, further, that these Senators met for the purpose of explaining their position on a resolution which will be before the Senate tomorrow, a resolution to amend rule XXV, relative to open and closed sessions of committees, which was reported by the Committee on Rules and Administration on February 21.

It seems odd to me that the power was turned off, if it was, when these Senators wanted to make an open explanation, at an open press conference, of their positions on the opening of the committees of the Senate to closer scrutiny by the public.

It is my intention to look into this matter on behalf of these Senators—none of them has approached me—to find out just what was behind this type of behavior, and to express, on the basis of what little I know at the present time, my opposition to any Senator being cut off at any time, especially when he wants to discuss a matter such as open hearings.

Mr. SCOTT of Pennsylvania. If the distinguished majority leader will yield, this is the first time I have heard of this. I agree with the majority leader. It certainly should not have happened, whether accidental or otherwise. We should find out about it.

The Senator refers to the Cannon resolution and an amendment which is intended to be offered to it, as I understand. I expect to support the Cannon resolution in its present form. Certainly, all those who have another opinion ought to be heard; and if they wish to have a press conference, it should have the widest possible coverage.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STEVENSON. I was one of the six Senators intending to offer the amendment to Resolution 69 and who did attempt this morning to hold a news conference. We attempted yesterday to find quarters within the Capitol complex for a news conference and were told that the only available quarters were in the rotunda. This information came through the staff of Senator ROTH from the Architect of the Capitol.

When we arrived at the rotunda with the press at 9 o'clock this morning, the representatives of the Architect's office indicated that no power would be available for the television cameras. That was not what we had been told yesterday.

Mr. President, we had intended to hold this news conference this morning in anticipation of a vote tomorrow on an amendment to the resolution on secrecy that has been reported by the Rules Committee. Since we were unable to have our news conference today, in anticipation of that vote tomorrow, I wonder whether the leadership would be receptive to giving us time tomorrow for a news conference, holding over the vote on the amendment to Resolution 69 until early next week.

Mr. MANSFIELD. Yes, we would. Would the Senator mind discussing the proposal tomorrow and perhaps on Friday, but voting on Monday?

Mr. STEVENSON. I would be very receptive to that suggestion. Perhaps we could discuss it at some length tomorrow.

What we are primarily interested in is holding a news conference before the vote; and if the vote could follow some time next week, I believe that would be very acceptable to all the sponsors of this amendment.

Mr. MANSFIELD. I assure the distinguished Senator from Illinois that his wishes will be acceded to.

May I say, further, that if the group which is interested in opening the committees of the Senate wishes to hold a press conference this afternoon, tomorrow morning, Friday, Saturday, or Monday, the offices of both leaders of the Senate will be available for them to undertake such a meeting.

Mr. SCOTT of Pennsylvania. That is right.

Mr. STEVENSON. I thank the joint leadership. I believe the press conference now has been scheduled for 9 o'clock tomorrow morning, in the hearing room of the Committee on Government Operations.

Mr. MANSFIELD. If the Senator runs into any trouble, either of our offices will be open.

In the meantime, I suggest to the distinguished minority leader that we write a letter to the Architect of the Capitol to find out what the reason was for the cutting off of the power in the rotunda this morning, after agreement had been reached.

Mr. SCOTT of Pennsylvania. I will gladly join in that.

I suggest to the distinguished Senator from Illinois that 5 minutes before the press conference tomorrow, he have somebody check the circuits in the room of the Committee on Government Operations.

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER—REMOVAL OF INJUNCTION OF SECRECY

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, opened for signature at Washington, London, Mexico City, and Moscow on December 29, 1972—Executive C, 93d Congress, first session—transmitted to the Senate today by the President of the United States, and that convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore (Mr. NUNN). Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, opened for signature at Washington, London, Mexico City and Moscow on December 29, 1972. The report of the Department of State is enclosed for the information of the Senate.

This Convention is designed to establish in each country which is a party to this Convention, a national system for regulating the ocean disposal of wastes comparable to the system for this country provided by Title I of Public Law 92–532 enacted October 23, 1972, the Marine Protection, Research, and Sanctuaries Act of 1972.

International concern for the protection and effective management of our oceans has been growing in recent years. We expect this Convention to come into force in a relatively short period of time and to provide a significant and successful step in the international control of

marine pollution. I recommend that the Senate give prompt consideration to this Convention and consent to its ratification.

RICHARD NIXON.

THE WHITE HOUSE, *February 28, 1973.*

ORDER OF BUSINESS

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

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. 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.

REHABILITATION ACT OF 1973—PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the privileges of the floor be extended to the following members of the staff of the Committee on Labor and Public Welfare in connection with consideration this afternoon of S. 7, the Rehabilitation Act of 1973, from this point in time, throughout consideration of S. 7 including all votes, until action is completed on that bill: Jonathan Steinberg, Michael Burns, Robert Humphreys, and Lisa Walker of the majority staff, and Roy Millenson, minority staff director.

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

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

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

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the morning hour be extended to the hour of 1 o'clock for the conduct of morning business, under the same limitations as heretofore applied.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. 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.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, 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 Senate to the joint resolution (H.J. Res. 345) making further continuing appropriations for the fiscal year 1973, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 2, 3, 4, and 5 to the joint resolution, and concurred therein.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON PLANNED ACTIONS BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION IN FISCAL YEAR 1973 PROGRAM

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on planned actions by that Administration, in the fiscal year 1973 program (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT OF FEDERAL CROP INSURANCE CORPORATION

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Federal Crop Insurance Corporation, for the 1972 crop year (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Agriculture for "Animal and Plant Health Inspection Service," for the fiscal year 1973 had been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON RESERVE FORCES

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on reserve forces, for fiscal year 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT ON SALE OR TRANSFER OF GOVERNMENT-OWNED COMMUNICATIONS FACILITIES IN ALASKA

A letter from the Secretary of Defense, reporting, pursuant to law, on the sale or transfer of Government-owned communications facilities in Alaska, for the calendar year 1972; to the Committee on Armed Services.

REPORT RELATING TO OFFICER RESPONSIBILITY PAY

A letter from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relating to Officer Responsibility Pay, for the calendar year 1972 (with an accompanying report); to the Committee on Armed Services.

REPORTS ON PROPOSED DONATIONS OF SURPLUS PROPERTY

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation of certain railroad equipment to the State of Texas; to the Committee on Armed Services.

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation of certain surplus property to the Promontory Chapter of the National Railway Historical Society, Inc., of Salt Lake City, Utah; to the Committee on Armed Services.

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation of certain surplus property to the Town of Dewer, Okla.; to the Committee on Armed Services.

REPORT ON OFFICERS RECEIVING FLIGHT INCENTIVE PAY

A letter from the Secretary of the Navy, reporting, pursuant to law, on officers receiving flight incentive pay, for the 6-month period ended October 31, 1972; to the Committee on Armed Services.

REPORT ON CONSTRUCTION PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE NAVAL AND MARINE CORPS RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on construction projects proposed to be undertaken for the Naval and Marine Corps Reserve (with an accompanying report); to the Committee on Armed Services.

REPORT ON PROPOSED CONSTRUCTION PROJECTS FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on proposed construction projects for the Army National Guard (with an accompanying report); to the Committee on Armed Services.

STATISTICAL SUPPLEMENT, STOCKPILE REPORT

A letter from the Acting Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a statistical supplement, Stockpile Report, for the period ended December 31, 1972 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE AIR FORCE

A letter from the Assistant Secretary of the Air Force, Manpower and Reserve Affairs, transmitting a draft of proposed legislation to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force (with an accompanying paper); to the Committee on Armed Services.

REPORT OF DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense (Installation and Logistics),

transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms, for July-November, 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON CAPITAL ASSISTANCE, TECHNICAL STUDIES, AND RELOCATION GRANTS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on capital assistance, technical studies, and relocation grants, for the year 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to prohibit the making of clad strip from which slugs can be cut for use in coin operated machines and to prohibit misrepresentation as to proof and uncirculated coins (with an accompanying paper); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Transportation Act of 1964 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED STANDARDS, RULES, AND REGULATIONS PROMULGATED BY THE COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, proposed standards, rules, and regulations promulgated by that Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes (with an accompanying paper); to the Committee on Commerce.

PROPOSED LEGISLATION FROM FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges (with accompanying papers); to the Committee on Commerce.

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize FM radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION FROM OFFICE OF TELECOMMUNICATIONS POLICY

A letter from the Director, Office of Telecommunications Policy, Executive Office of the President, transmitting a draft of proposed legislation to authorize appropriations for the fiscal year 1974 for the Corporation for Public Broadcasting (with an accompanying paper); to the Committee on Commerce.

PROPOSED SAFE DRINKING WATER ACT OF 1973

A letter from the Administrator of the Environmental Protection Agency submitting proposed legislation to assure that the public is provided with safe drinking water, and for other purposes (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend sections 112, 692, 6013, and 7508 of the Internal Revenue Code of 1954 for the relief of certain members of the Armed Forces of the United States returning from the Vietnam conflict combat zone, and for other purposes (with accompanying papers); to the Committee on Finance.

REPORT UNDER FOREIGN ASSISTANCE ACT

A letter from the Secretary of State, transmitting, pursuant to law, a report required under the Foreign Assistance Act, for fiscal year 1972 (with an accompanying report); to the Committee on Foreign Relations.

REPORT ON DELIVERIES OF EXCESS DEFENSE ARTICLES

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on deliveries of excess defense articles, during the first quarter of fiscal year 1973 (with an accompanying report); to the Committee on Foreign Relations.

TERM OF A MEMBER OF THE UNITED STATES NATIONAL COMMISSION FOR THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, informing the Senate that the term of Senator ROBERT J. DOLE, of Kansas, as a member of the United States National Commission for the United Nations Educational, Scientific and Cultural Organization has expired, and asking for a recommendation in that regard; to the Committee on Foreign Relations.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations, and for other purposes (with an accompanying paper); to the Committee on Foreign Relations.

PROPOSED LEGISLATION AUTHORIZING APPROPRIATIONS FOR THE PEACE CORPS

A letter from the Acting Director of ACTION transmitting proposed legislation amending the Peace Corps Act to authorize appropriations for Peace Corps for the next 2 fiscal years (with accompanying papers); to the Committee on Foreign Relations.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

A letter from the Acting Assistant Secretary of State inviting nominations of Members of the Congress as congressional advisers to the next and future sessions of the Preparatory Committee of the U.N. Conference on a Code of Conduct for Liner Conferences: to the Committee on Foreign Relations.

LIST OF REPORTS OF GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, for the month of January 1973 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in Collection of Data for the U.S. Postal Service's Revenue and Cost Analysis System," dated February 20, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need to Establish Priorities and Criteria for Managing Assistance Programs for U.S. Fishing-Vessel Operators," National Oceanic and Atmospheric Administration, Department of Commerce, dated February 22, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How the United States Finances its Share of Contributions to NATO," Department of Defense, Department of State, dated February 23, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Government National Mortgage Association for Fiscal Year 1972," Department of Housing and Urban Development, dated February 23, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Difficulties of the Neighborhood Youth Corps In-School Program and its Management Problems," Department of Labor, dated February 20, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Processed Fruits and Vegetables: Potentially Adulterated Products Need to be Better Controlled—Sanitation in Some Plants Needs Improvement," Agricultural Marketing Service, Department of Agriculture, Food and Drug Administration, Department of Health, Education, and Welfare, dated February 21, 1973 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "What Should U.S. Policy Be for Development Assistance to Ecuador?," Agency for International Development, Department of State, Department of Defense, U.S. Information Agency, ACTION, dated February 27, 1973 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE OFFICE OF COAL RESEARCH

A letter from the Secretary of the Interior submitting, pursuant to law, the 1973 annual report of the Office of Coal Research (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed

legislation to provide for the addition of certain eastern national forest lands to the national wilderness preservation system, to amend section 3(b) of the Wilderness Act, and for other purposes (with an accompanying paper): to the Committee on Interior and Insular Affairs.

REPORT ON STATUS OF THE GUAM ECONOMIC DEVELOPMENT FUND ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Governor of Guam on the status of the Guam Economic Development Fund Act of 1968, for the year 1972 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT FOR A RESEARCH PROJECT

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract for a research project entitled "Evaluation of Resin and Mechanical Roof Bolting Systems for Strata Bound Deposits" (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON PROPOSED CLOSURE OF PLAQUEMINE LOCK, IN PLAQUEMINE, LA.

A letter from the Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, the comments of that Council on the proposed closure of Plaquemine lock in Plaquemine, La., by the Army Corps of Engineers (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for additional costs of land acquisition for the national park system (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM THE ATTORNEY GENERAL

A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the continuation of programs authorized under the Older Americans Act of 1965, and for other purposes (with accompanying papers); to the Committee on Public Works.

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM CIVIL SERVICE COMMISSION

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to permit immediate retirement of certain Federal employees (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION TO REVISE REPORTING REQUIREMENT OF THE CIVIL SERVICE COMMISSION

A letter from the Chairman of the Civil Service Commission submitting proposed legislation to amend title 5, United States Code, to revise the reporting requirement contained in subsection (b) of section 1308 (with accompanying paper); to the Committee on Post Office and Civil Service.

PROSPECTUSES RELATING TO CERTAIN PUBLIC BUILDINGS

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, prospectuses relating to the construction of certain public buildings in Arizona, Texas, and Washington; to the Committee on Public Works.

REPORT ON RESOURCE RECOVERY

A letter from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on resource recovery (with an accompanying report); to the Committee on Public Works.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to amend the act of August 20, 1963, as amended, relating to the construction of mint buildings (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION FROM ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to assure protection of public health and other living organisms from the adverse impact of the disposal of hazardous wastes, to authorize a research program with respect to hazardous waste disposal, and for other purposes (with an accompanying paper); to the Committee on Public Works.

PROPOSED LEGISLATION FROM DEPARTMENT OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for certain transportation projects in accordance with title 23 of the United States Code, and for other purposes (with accompanying papers); to the Committee on Public Works.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

AMENDMENT TO PROPOSED LEGISLATION FROM THE ATOMIC ENERGY COMMISSION

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting an amendment to the proposed legislation to authorize appropriations to that Commission for fiscal year 1974 (with an accompanying paper); to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California; to the Committee on Banking, Housing and Urban Affairs:

"ASSEMBLY JOINT RESOLUTION No. 9

"Relative to the export of logs from the United States of America

"Whereas, Nearly four billion board feet of unsawed logs were exported from the United States during 1970; and

"Whereas, The demand for our logs by foreign buyers has soared upward in recent months due to unprecedented construction activity abroad; and

"Whereas, Foreign demand has increased log prices in some United States supply regions in recent weeks by as much as 500 percent; and

"Whereas, Foreign competition for domestic logs has begun to cripple the ability of local manufacturers to supply their mills and to produce lumber products at stable prices; and

"Whereas, These disruptions and diseconomies in domestic lumber production have begun to distress the California primary timber industry which employs nearly 50,000 workers and supports a 300-million-dollar annual payroll; and

"Whereas, The growing distress in our primary timber industry is the result of increased export of American logs foreshadowing lumber shortages and price increases which will adversely affect this state's vital construction industry and its ability to meet California's housing and business demands; and

"Whereas, The Export Control Act provides the Secretary of Commerce the authority and responsibility to control the exportation of materials in short supply when a drain of such materials exists or where foreign demand exerts an inflationary impact on such materials; and

"Whereas, The conditions necessary for action by the Secretary of Commerce under the provisions of the Export Control Act exist in California and throughout the Pacific Northwest on a scale which promises massive unemployment and hardship for the people of these regions; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to instruct the Secretary of Commerce to exercise his power to forbid the export of logs from the United States until such time that the Secretary of Agriculture finds that the nation's projected timber needs for five consecutive years could be entirely satisfied by domestic supplies; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Commerce, the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the House of Representatives of the State of Hawaii; to the Committee on Banking, Housing and Urban Affairs:

"H.R. No. 12

"House resolution expressing the concern of the Hawaii State House of Representatives to President's Nixon's halt on approving new commitments of federal subsidized housing and community development programs, asking the President to reconsider his decision, and requesting Congress to take appropriate action to continue and expand Federal subsidized housing programs, particularly for low and moderate income persons, and community development programs

"Whereas, President Richard M. Nixon ordered a halt on approval or new commitments of federal subsidized housing and community development programs; and

"Whereas, the people of the State of Hawaii have a continuing need for housing and for community improvements; and

"Whereas, the President's order may have an adverse effect on the health and welfare of Hawaii's people; and

"Whereas, there is a continuing inflationary spiral in Hawaii's housing market making it close to impossible for low and moderate income persons to find homes to buy or rent within their financial means; and

"Whereas, easing the present housing situation in Hawaii requires heavy investments of public funds to complement the investments in housing by the private sector; and

"Whereas, neither the State government nor local governments in Hawaii command the necessary funds from their own resources to substantailly ease the situation; and

"Whereas, a flow of federal funds for housing and community development programs to the State of Hawaii is essential if the State is to improve the housing situation, particularly as it affects low and moderate income persons; and

"Whereas, the President's freeze on new commitments has already had adverse effects including announcements by developers of new projects that the prices of their units would have to be increased as much as twenty-five to thirty percent and decisions by other developers to terminate or delay badly needed new housing projects;

"Whereas, these adverse consequences of the President's freeze can be expected to aggravate the already serious housing problem in Hawaii; and

"Whereas, the President's action freezing federal funds for housing and community development programs may also impose hardships on the economy of the State of Hawaii; now, therefore,

"Be it resolved by the House of Representatives of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, that it does hereby express its concern over President Richard M. Nixon's order freezing the approval of new commitments of federal subsidized housing and community development programs; and

"Be it further resolved that the House respectfully requests the President of the United States to reconsider his decision to halt approval of new commitments for housing and community development programs; and

"Be it further resolved that the House respectfully requests the Congress of the United States to review, modify, improve, strengthen, and expand federal efforts and funding for housing and community development programs; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and Hawaii's congressional delegation."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Commerce:

"HOUSE JOINT MEMORIAL NO. 4

"A joint memorial to the President of the United States, to the Congress of the United States, and to the Secretary of the Interior of the United States relating to the use of toxic materials for the control of predators

"We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Forty-second Idaho Legislature, do hereby respectfully represent that:

"Whereas, the range livestock business is the number one industry in the State of Idaho; and

"Whereas, the range livestock business is presently suffering serious losses and depredations caused by predatory animals; and

"Whereas, the game bird and game animal wildlife resources are also suffering serious losses and depredations caused by predatory animals; and

"Whereas, present control methods are not preventing these serious and irreplaceable losses.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring, that we most respectfully urge the President of the United States to allow the Federal Fish and Wildlife Service of the Department of the Interior to use toxic materials to control predatory animals where these serious losses and depredations are occurring.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to the Secretary of the Interior of the United States."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Interior and Insular Affairs:

"HOUSE JOINT MEMORIAL NO. 3

"A joint memorial to the President of the United States, the Honorable Senate and House of Representatives of the United States in Congress assembled, the Secretary of the Interior and the Idaho Congressional Delegation representing this State in the Congress of the United States

"We, your Memorialists, the House of Representatives and Senate of the State of Idaho assembled in the First Regular Session of the Forty-second Idaho Legislature, do respectfully represent that:

"Whereas, the American Falls Dam, Upper Snake River Basin, Idaho, is the foundation of the existing irrigation development in the Upper Snake River Basin, and contributes almost one-half of the usable storage on the main stem of the Upper Snake River; and

"Whereas, cracking throughout the dam has required restrictions on storage equal to one-third of its capacity and the continually deteriorating structure, if not replaced, will require further storage restrictions; and

"Whereas, the Bureau of Reclamation, of the United States Department of Interior, has recommended that the structure be replaced; and

"Whereas, if the structure is not replaced financial failure for hundreds of farmers and severe economic loss is predicted, as well as danger to human life; and

"Whereas, alternatives exist to replace the dam with a structure downstream from the existing structure which would remedy the problems currently encountered.

"Now, therefore, be it resolved by the First Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature respectfully requests that the Congress take whatever action is necessary to replace the existing structure and to insure that the new dam is completed without delay.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Vice-President of the United States, the Speaker of the House of Representatives of Congress, the Secretary of the Interior, and the members of the Idaho Congressional Delegation representing this state in the Congress of the United States."

A joint resolution of the Legislature of the State of Maine; to the Committee on Post Office and Civil Service:

"JOINT RESOLUTION MEMORALIZING THE HONORABLE ELMER T. KLASSEN, POSTMASTER GENERAL AND THE U.S. CONGRESS FOR RESTORATION OF MAINE POSTAL SERVICE

We, your Memorialists, the Senate and House of Representatives of the State of Maine in Regular Session of the One Hundred and Sixth Legislative Session now assembled, most respectfully present and petition the Honorable Elmer T. Klassen, Postmaster General and the United States Congress as follows:

"Whereas, Postal service in the State of Maine has greatly deteriorated as the result of suspension of highway post-office service and the institution of central sorting; and

"Whereas, the altered service has seriously impaired communication between rural communities, particularly, imposing new handicaps upon rural enterprise and interfering with historic geographic relationships between neighboring towns; and

"Whereas, for a generation, Federal and State leaders have urged the dispersal of overcrowded population and commercial activities of urban to rural areas, while new policies of the postal service continue to concentrate employment and enterprise in urban centers; and

"Whereas, an efficient postal service with prompt delivery into and out of rural areas as well as between rural points is essential to the social well-being, clutural improvement and economic health of rural Maine; now, therefore, be it

"Resolved: That we, your Memorialists, hereby record our dissatisfatcion with the existing postal service afforded the Citizens of this State, and respectfully urge and petition said Postmaster General and the Congress of the United States, to take appropriate action to bring the United States Postal Service into conformity with other federal policies aimed at the preservation of rural life and to restore those standards of efficiency, economy and level of postal services in the State of Maine which previously prevailed; and be it further

"Resolved: That a copy of this Memorial, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Postmaster General of the United States, to the Senate and House of Representatives in Congress and to the Members of the said Senate and House of Representatives from this State."

A resolution of the Legislature of the State of Minnesota; to the Committee on the Judiciary:

"H.F. No. 3: RESOLUTION NO. 1

"A resolution to ratify a proposed amendment to the Constitution of the United States of America relating to equal rights for men and women under the law

"Whereas, both Houses of the Congress of the United States by a Joint Resolution proposed an amendment to the Constitution of the United States which reads as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States; which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'ARTICLE —

" 'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it resolved by the Legislature of the State of Minnesota that the proposed amendment to the Constitution of the United States is hereby ratified by the Legislature of the State of Minnesota.

"Be it further resolved that the Secretary of State of the State of Minnesota is directed to forward copies of this resolution to the administrator of the Central Services Administration, to the presiding officer of the Senate of the United States and the speaker of the House of Representatives of the United States and transmit an official notice of this resolution to the Secretary of State of the United States as provided by the law of this state."

A joint resolution of the Legislature of the State of Nevada; to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION No. 3

"Assembly Joint Resolution—Memorializing Congress to provide funds for fencing land adjacent to highways that pass through federal land

"WHEREAS, Highway safety has become a matter of great concern both at the state and federal level; and

"WHEREAS, It has been determined that domestic animals ranging across Nevada's highways create an extremely dangerous hazard that has caused many deaths among those who have traveled these highways in motor vehicles; and

"WHEREAS, Much of the unfenced land abutting Nevada's highways is federal land; and

"WHEREAS, Nevada's highways could be kept substantially free of domestic animals if federal grazing land was fenced; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of Nevada, jointly, That the legislature of the State of Nevada hereby respectfully memorializes the Congress of the United States to provide additional funding to fence federal land used for grazing domestic animals; and be it further

"Resolved, That copies of this resolution be prepared and transmitted by the legislative counsel to the Vice President of the United States as presiding officer of the Senate, to the Speaker of the House of Representatives and to all members of the Nevada congressional delegation."

A concurrent resolution of the Legislature of the State of New York; to the Committee on the Judiciary:

"RESOLUTION No. 46

"Concurrent Resolution of the Legislature memorializing the Congress of the United States to enact legislation designating Veterans' Day as a holiday to be celebrated on the eleventh day of November

"Whereas, Veterans' Day, formerly known as Armistice Day, was traditionally celebrated on November eleventh in commemoration of the signing of the Armistice ending World War I; and

"Whereas, Many individuals and groups, especially veterans of the armed services and their organizations, while appreciating the feelings of many for a three day weekend, object to the celebration of this holiday on a date which falls so far from the date which truly reflects the significance of the celebration; now, therefore, be it

"Resolved (if the Senate concur), That the Congress of the United States be hereby respectfully memorialized to enact legislation designating Veterans' Day as a holiday to be celebrated on the eleventh day of November; and be it further

"Resolved (if the Senate concur), That copies of this resolution be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives, and to each member of the Congress of the United States from the State of New York."

A concurrent resolution of the General Assembly of the State of South Carolina; to the Committee on Finance:

"CALENDAR No. S. 154

"A concurrent resolution memorializing the Congress of the United States To Preserve the Capital Gains Treatment of Timber Under the Internal Revenue Code

"Whereas, capital gains tax treatment of timber under the Internal Revenue Code has been one of the major factors responsible for the vast progress in South Carolina and the nation in forest management and the growth of forest resources during the past half century; and

"Whereas, the substantial elimination of capital gains treatment for the owners of forest lands would constitute the most severe setback in this generation to the growth of forest products; and

"Whereas, increased consumer demand for wood and paper products, pressures on outdoor recreation resources, and the environmental benefits of timber growth and utilization have all focused greater attention on renewable forest lands, both public and private, to the extent that our nation has seen a reversal of earlier trends of the past thirty years whereby the harvest of forest resources was exceeding the regeneration; and

"Whereas, the jobs of thousands of employees and many hundreds of communities are affected by the forest industries of South Carolina and would be jeopardized by the elimination of capital gains treatment of timber. Now, therefore,

"Be it resolved by the Senate, the House of Representatives concurring:

"That the Congress of the United States be memorialized to protect and preserve the capital gains treatment of timber and thereby encourage private timberland owners to invest in the growing of timber so necessary to this nation's continued economic growth, security and environmental well-being.

"Be it further resolved that copies of this resolution be forwarded to the President of the United States Senate and the Speaker of the United States House of Representatives and to each member of the South Carolina Congressional Delegation."

A resolution of the Senate of the State of Washington; to the Committee on Commerce:

"SENATE RESOLUTION 1973–26

"Whereas, The nation faces a well-documented emergency in the provision of fuels to meet all energy needs; and

"Whereas, Multi-millions of barrels of oil remain undeveloped in the North Slope fields in Alaska; and

"Whereas, Development of these energy sources will reduce the dependence of the nation on oil supplies from other nations; and

"Whereas, In times of national defense emergency, it will be absolutely vital to have such energy sources under control of the United States; and

"Whereas, The Congress presently has before it policy questions regarding the implementation of the pipeline project proposed by Aleyeska, Inc., of Bellevue, Washington; and

"Whereas, Every effort should be made to expedite the construction of the pipeline from the North Slope area, with strict adherence to all ecological and environment laws and regulations;

"Now, therefore, be it resolved, By the Senate of the State of Washington that the Congress immediately take such policy and legislative steps necessary that will provide for construction of the pipeline from the North Slope to tidewater in Alaska.

"Be it further resolved, That copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the U.S. House of Representatives and the members of the delegation to the Congress from the State of Washington."

A resolution of the House of Representatives of Puerto Rico; to the Committee on Armed Services:

"RESOLUTION

"To request from the President of the United States of North America to order the Department of Defense to cease using the Island Municipality of Culebra and the Island Municipality of Vieques as target practices of the Navy of the United States; and to express the petition of the House of Representatives of Puerto Rico that the Department of Defense should transfer to the Government of the Commonwealth of Puerto Rico the lands owned by the Navy of the United States in Vieques and Culebra for the purpose that they be used for industrial, agricultural, educational development and for any other purpose.

"STATEMENT OF MOTIVES

"Whereas: The Navy of the United States owns vast amounts of land in the Islands of Culebra and Vieques, which approximately comprise two thirds of the total area of both Islands.

"Whereas: The Municipalities of Culebra and Vieques are in urgent need of industrial, touristic, agricultural development and of any other nature, which might promote work and prosperity in said Islands.

"Whereas: Our fellow citizens of Culebra and Vieques have been suffering for some time from the effects of the target practices of the Navy of the United States.

"Whereas: The population of Culebra and Vieques are entitled to the constitutional and human right of being able to live in peace and quiet free from acts which endanger their lives and their tranquillity.

"Whereas: The residents of these Island-Municipalities, specially the children, have shown that they have been living in constant anguish in their own native land.

"Whereas: On January 11, 1971, the Governor of Puerto Rico, the President of the Senate, the Secretary of the Navy and the Mayor of Culebra signed an agreement by which the Navy of the United States pledged itself to find in 1972, some practical alternatives to the use of Culebra as a firing range.

"Whereas: Said public agreement has been suddenly infringed by the Secretary of the Defense of the United States on stating that the Navy shall continue using the island of Culebra as its firing range at least until the year 1985.

"Whereas: Within the spirit prevailing with the signing of the Peace Treaty of Viet Nam, the elimination of the target practices in Vieques and Culebra constitutes an additional affirmative step of the determination of the people of the United States in establishing an enduring peace with the entire world.

"Therefore: be it resolved by the House of Representatives of Puerto Rico:

"Section 1.—To express our protest, rejection and displeasure on the persistence of the Navy of the United States to continue using the Municipalities of Culebra and Vieques as a firing range or for any other use of a military nature.

"Section 2.—To request from the President and from the Department of Defense of the United States and from any other agencies to return the lands of Culebra and Vieques in the possession of the Navy of the United States and that they be transferred to the Commonwealth of Puerto Rico.

"Section 3.—To transmit a copy of this resolution to the President of the United States, to the Governor of Puerto Rico, to the

Congress of the United States and to the Mayors of the Municipalities of Vieques and Culebra for their cognizance."

A resolution adopted by the board of directors, Southern Illinois Power Cooperative, Marion, Ill., expressing dissatisfaction with the termination of the function of the REA in its loan programs to cooperatives; to the Committee on Agriculture and Forestry.

A resolution adopted by the St. Martin Parish Police Jury, expressing dissatisfaction with the proposed closing of the Iberia Livestock Experiment Station; to the Committee on Agriculture and Forestry.

A resolution adopted by the board of directors of the Western Illinois Power Cooperative, Inc., Jacksonville, Ill., relative to abolishment of the Rural Electrification Administration program; to the Committee on Agriculture and Forestry.

A resolution adopted by the Ohio Conference of Community Development, Inc., praying for the release of impounded funds; to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the city of Stockton, Calif., praying for the continued funding of categorical and block grants; to the Committee on Finance.

A resolution adopted by the Lithuanian American Council, Inc., Rochester, N.Y., praying for the abolishment of the occupation of the Baltic States; to the Committee on Foreign Relations.

A resolution adopted by the Board of Commissioners, County of Wayne, Detroit, Mich., importuning the President and Congress to assure the country that there will be no resumption of the bombing in North Vietnam; to the Committee on Foreign Relations.

A resolution adopted by the Speech Communication Association, New York, N.Y., relating to the confidential relationships between journalists/newsman and their sources of information; to the Committee on the Judiciary.

A resolution adopted by the township of Long Beach, Ocean County, N.J., endorsing Ocean Community Economic Action Now, Inc.; to the Committee on Labor and Public Welfare.

A resolution adopted by the executive committee of the Southern California Association of Governments, Los Angeles, Calif., praying for the enactment of legislation relating to the funding of the Federal highway and transportation program; to the Committee on Public Works.

A poem of the Poet Laureate, International Platform Association, Manila, P.I., entitled "Truman and Johnson"; ordered to lie on the table.

REPORT ENTITLED "LEGISLATIVE REVIEW ACTIVITY"—REPORT OF A COMMITTEE (S. REPT. NO. 93–51)

Mr. LONG, from the Committee on Finance, pursuant to section 136 of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970 and by Public Law 92–136, submitted a report entitled "Legislative Review Activity," which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

Jack O. Horton, of Wyoming, to be an Assistant Secretary of the Interior.

Mr. JACKSON. Mr. President, in submitting the report of the Committee on Interior and Insular Affairs on the nomination of Jack O. Horton to be Assistant Secretary of the Interior, I wish to state that this nominee has agreed and committed himself in open hearing before the Interior Committee to appear and testify at such reasonable times as the Interior Committee or any other duly constituted Senate committee might request his presence.

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. PACKWOOD (for himself, Mr. CHURCH, and Mr. CRANSTON).

S. 1033. A bill to amend the Export Administration Act of 1969 (50 App. U.S.C. 2401–2413) as amended, to control the export of timber from the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCOTT of Pennsylvania:

S. 1034. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the disposal of certain surplus property for court and law enforcement purposes. Referred to the Committee on Government Operations.

By Mr. BENNETT:

S. 1035. A bill for the relief of J. Clarence Ingram, Don W. Ingram, and Dick L. Ingram. Referred to the Committee on the Judiciary.

By Mr. MUSKIE (for himself, Mr. BAKER, Mr. BAYH, Mr. BIBLE, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. JAVITS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT of Pennsylvania, Mr. STEVENSON, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 1036. A bill to amend the Internal Revenue Code of 1954 with respect to legislative activity by certain types of exempt organizations. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 1037. A bill to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 1038. A bill to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave. Referred to the Committee on Armed Services.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1039. A bill to authorize appropriations for additional cost of land acquisition for the National Park System. Referred to the Committee on Interior and Insular Affairs.

S. 1040. A bill to reform the mineral leasing laws, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 1041. A bill to provide for the management, protection, development, and sale of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ERVIN:

S. 1042. A bill to insure the separation of Federal powers and to protect the legislative function by amending title I of the United States Code, to provide for the implementation of article I, section 7, of the Constitution. Referred to the Committee on the Judiciary.

S. 1043. A bill for the relief of certain persons. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1044. A bill for the relief of Lucilo Mejia Bolaoen; and

S. 1045. A bill for the relief of Dino Mendoza Pascua. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 1046. A bill to amend the Internal Revenue Code of 1954 to provide for licensing of income tax return preparers. Referred to the Committee on Finance.

By Mr. MCINTYRE:

S. 1047. A bill for the relief of Raymond Eldon Davis; and

S. 1048. A bill for the relief of Leonard Davis. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN:

S. 1049. A bill for the relief of Bhuminder Singh. Referred to the Committee on the Judiciary.

By Mr. MCINTYRE (for himself and Mr. WILLIAMS):

S. 1050. A bill to provide for the registration and regulation of oil and gas programs, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HARTKE:

S. 1051. A bill to amend the Social Security Act to eliminate the requirement that a recipient of disability insurance benefits under title II of such Act must wait for 24 months before becoming eligible for coverage under Medicare. Referred to the Committee on Finance.

By Mr. HARTKE (for himself, Mr. BAYH, and Mr. GRAVEL):

S. 1052. A bill to establish a Consumer Savings Disclosure Act in order to provide for uniform and full disclosure of information with respect to the computation and payment of earnings on certain savings deposits. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS:

S. 1053. A bill for the relief of Rosa Louisa Giordano. Referred to the Committee on the Judiciary.

S. 1054. A bill to amend the Internal Revenue Code of 1954 so as to make more current the amounts prescribed in determining the amount of income to which the retirement income credit under such code is allowable. Referred to the Committee on Finance.

By Mr. TUNNEY (for himself and Mr. MAGNUSON):

S. 1055. A bill to authorize a program of research and development of alternative propulsion systems for automotive vehicles in commerce. Referred to the Committee on Commerce.

By Mr. FANNIN (for himself, Mr. HANSEN, Mr. MCCLURE, Mr. JOHNSTON, Mr. STEVENS, Mr. GRAVEL, and Mr. BARTLETT):

S. 1056. A bill to amend the Mineral Leasing Act of 1920. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 1057. A bill to amend the Colorado River Storage Project Act in order to remove the prohibition against constructing dams or reservoirs authorized in such act within national parks or monuments. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

S.J. Res. 70. A joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself, Mr. CHURCH, and Mr. CRANSTON):

S. 1033. A bill to amend the Export Administration Act of 1969 (50 App. U.S.C. 2401–2413) as amended, to control the export of timber from the United States. Referred to the Committee on Banking, Housing and Urban Aaffirs.

Mr. PACKWOOD. Mr. President, the many problems that are associated with the large scale exporting of logs have been of considerable concern to me since I took office in 1969.

Immediately prior to my entry in the Senate, the Congress approved a measure restricting the quantity of logs that were cut from Federal lands that could be exported. The Morse amendment, as it is known, provided that no more than 350 million board feet of unprocessed logs cut from Federal lands could be exported annually. The measure took effect on January 1, 1969, and was originally scheduled to expire on December 31, 1971. By way of an amendment to the Housing and Urban Development Act of 1970, I urged the Congress to extend the Morse amendment for 2 years. As currently written, the Morse amendment will expire at the end of this year.

Last year, under the auspices of the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs, I conducted 3 days of oversight hearings in Salem, Oreg., and Washington, D.C. These hearings were conducted for the purpose of inquiring into the situation that had developed during the nearly 4 years since passage of the Morse amendment.

At those hearings, several witnesses testified to the point of the benefits to be had by continuing log exports. There was also a great deal of evidence presented that, while granting the potential for short-term benefits to be had by those actively involved in the export business, indicated the dangerous potential for long-term disadvantages to accrue to the overall economies of the Western States as well as the Nation as a whole given the continued wholesale exporting of logs.

Allow me to cite a couple examples of the way in which unrestricted log exports affect the national interest.

There has been considerable discussion of the point that were we to further restrict log exports, our Nation's balance of payments would be in even worse shape than it is. Evidence that has been compiled recently would indicate precisely the opposite is true. By continuing as we have to export raw logs to other countries—principally Japan—and import higher-valued finished lumber from some other place—principally Canada—to meet domestic demand, our overall balance of trade in 1972 was worse than it would have been had my proposal been in effect and we used those logs to meet our own domestic needs. The total net deficit in our balance of trade due to this three-way exchange was more than $400 million in 1972.

Another factor in this controversy affecting the national interest is the inflationary factor directly attributable to log exports which affects the American homeowner. Not only did we experience desperation bidding by foreign interest on the west coast for available timber supplies—bidding that sent timber prices soaring far from the reach of domestic producers of wood products—but we also experienced a truly unique and quite inexcusable situation in our efforts to meet domestic demand for wood products by way of imports of finished lumber.

At a time when the President's economic stabilization program was being used in an effort to hold down prices for wood products, we were being forced by circumstances over which we could and should have exercised greater control to import lumber in such vast quantities as to meet fully one quarter of total domestic consumption in 1972.

In short, because this Nation was exporting raw logs we were forced as a nation to buy nearly 5 billion board feet of lumber from Canada that we would not have had those logs been used at home—lumber that was free from any form of price or profit-margin control on the first transaction. Is it any small wonder, then, that lumber prices have soared during the last year and, under existing circumstances, will undoubtedly continue to increase? I would remind my colleagues that for every $1,000 increase in the cost of a house, nearly 2 million Americans are effectively excluded from the home-buying market. This is too great a price to pay—this dashing of the dreams of so many of our citizens—simply so a few organizations can reap the monetary financial benefits of unrestricted exports of raw logs.

These are just two of the many reasons that have served to convince me that the problems associated with log exports are overwhelmingly national in scope and character—not simply the province of one or two States as some would have us believe.

I have been studying this question of log exports and its many ramifications in depth since those hearings last June. The result of my inquiry is the legislative proposal I am introducing today for myself, the senior Senator from Idaho (Mr. CHURCH) and the senior Senator from California (Mr. CRANSTON).

Our proposal is purposely designed to respond to the fact that the problems associated with log exports cannot be wished away. This Nation needs a legal instrument that is adaptable to every conceivable circumstance. I am convinced that the mechanisms provided for in our proposal will operate effectively to keep America's logs at home when domestic demand surges as it has during the current housing boom. On the other hand, our proposal will respond just as effectively to those occasions when domestic demand plummets.

The single most important feature of our proposal is that it, unlike the present legal arrangements, will allow for a relatively automatic reflection of and reaction to the fluctuations in domestic demand for wood products. The inherent inflexibility of existing law predisposes it to be ineffective in coping with a market like that found in the wood products industry.

Mr. President, I ask unanimous consent to have several items printed at the conclusion of my remarks. Among these are the text of the proposal, a brief section-by-section analysis of the provisions of the proposal, and two tables which will be of assistance in understanding the scope of the problems to which the proposal is addressed. Also I would ask that the letter that Senator CRANSTON and I sent to the President earlier this month urging an immediate stop to all log, lumber, and plywood exports be printed at the conclusion of my remarks.

Senator STEVENSON and I, as chairman and ranking minority member of the Subcommittee on International Finance, respectively, have recommended that the subcommittee be authorized to conduct a thorough investigation into this controversy. We have recommended that hearings be scheduled to be held in Washington, D.C., April 3 and 4, 1973; Seattle, Wash., April 9, 1973; Portland, Oreg., April 11, 1973; and San Francisco, Calif., April 13, 1973. I expect to be able to announce a firm schedule for such hearings in the near future.

I herewith commend this proposal for the consideration of my colleagues.

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

S. 1033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Export Administration Act of 1969 (50 App. U.S.C. 2401–2413) as amended, is further amended by—

(a) inserting immediately before section 1 the following—

"TITLE I—GENERAL PROVISIONS";

(b) redesignating sections 1 through 14, and all cross references thereto, as sections 101 through 114, respectively;

(c) striking "this Act" wherever it appears in sections 101 through 114 (as redesignated by subsection (b)) and inserting "this title"; and

(d) striking "This Act" in section 113(a) (as redesignated) and inserting "This title".

SEC. 2. The Export Administration Act of 1969 as amended, is further amended by adding at the end thereof the following new title:

"TITLE II—TIMBER EXPORT CONTROLS

"SEC. 201. This title may be cited as the 'Timber Export Administration Act of 1973'.

"SEC. 202. It is the finding of the Congress that the substantial increase in recent years in the rate of export to foreign countries of coniferous timber is creating a severe domestic shortage of softwood lumber and plywood; is impairing the stability of many communities in the United States that are economically and socially dependent upon the processing of coniferous timber into various wood products; is threatening to cause serious unemployment in the affected areas of the United States; has caused the elimination of some and threatens the survival of many other small business concerns; and has caused impairment and threatens further impairment of the industrial capacity of the United States to produce wood products that are vital to the domestic economy

and essential to the national defense and security.

"SEC. 203. Congress declares that it is the policy of the United States to alleviate the harmful effects of the excessive exportation of coniferous timber by limiting the volumes thereof that may be exported from the United States.

"SEC. 204. (a) Except as provided in subsections (b) and (c) of this section, timber from any Federal lands shall not be exported from the United States on or after January 1, 1974, and timber from any non-Federal lands shall not be exported from the United States on or after January 1, 1977.

"(b)(i) On or after January 1, 1974, the Secretary may after public hearings determine that specific quantities of timber from Federal or non-Federal lands are surplus to the needs of domestic users and processors, and may issue a permit authorizing the export of any such timber.

"(ii) The Secretary shall issue a permit only upon the application of the person in control of the use or disposition of such timber if the Secretary finds that such timber is currently in log form and that there is currently no reasonable market therefor within those areas of the United States to which it could be economically transported for processing. In arriving at such findings with respect to a reasonable market, the Secretary shall take into account, among other things—

"(A) the fair value for domestic use of the timber in the form in which and at the place at which it exists as determined by the Secretary of Agriculture and

"(B) whether the applicant has attempted in good faith but unsuccessfully to sell the timber involved at not more than such fair value to persons that are customarily engaged in the processing of timber of the type involved at facilities within economic transportation distance of the current situs of such timber.

"(iii) The Secretary shall through regulation designate at least one day in each month on which he will receive written or oral testimony from permit applicants, and other interested persons, relevant to the findings required under paragraph (ii) of this subsection. To provide for public notice of pending applications, testimony will be received on only those applications delivered to the Secretary at least 10 days prior to the designated date. After receipt and consideration of the testimony, the Secretary shall within five days, Saturdays, Sundays, and holidays being excluded, approve or disapprove such applications. Concurrent with his action the Secretary shall issue a concise public statement stating his reasons therefor.

"(c) Timber cut from Federal lands that has been exempted from domestic processing under the provisions of any Federal timber sale contract awarded prior to March 1, 1973, is exempted from the export restrictions of this title: *Provided*, no such timber shall be exported unless the exporter of said timber obtains a permit from the Secretary. The Secretary shall include in said permit such conditions as he determines are necessary to maintain the identity of the timber to be exported.

"SEC. 205. (a) On or before November 1, 1973, any exporter which exported timber from non-Federal lands during calendar year 1972 shall file with the Secretary a report, in such form as he may require, stating the quantity of timber exported during calendar year 1972. The Secretary shall, with the exception contained in subsection (b) of this section, use reported quantities as the base for determining export quotas for each exporter under subsection (c) of this section. Any individual, corporation, association, firm, or other legal entity which did not export timber during calendar year 1972, or which fails to report timber exports made during such period, shall be ineligible to export timber under the provisions of this section.

"(b)(i) On or before February 1, 1974, any exporter which exported timber from non-Federal lands during calendar year 1973, shall file with the Secretary a report, in such form as he may require, stating the quantity of timber exported during calendar year 1973.

"(ii) If the quantity of such timber exported by any exporter during calendar year 1973 is in excess of the quantity exported by such exporter during calendar year 1972, such excess quantity shall be subtracted from the quantity exported during calendar year 1972 and that quantity derived after such subtraction shall be the base for determining export quotas for such exporter under subsection (c) of this section.

"(c) Effective on January 1, 1974, and continuing through December 31, 1976, the quantity of timber, other than surplus timber, that may be exported from non-Federal lands by an exporter who has filed reports in compliance with subsections (a) and (b) of this section, shall not exceed a quantity as established by quota to be determined in accordance with the following formula:

Calendar year 1974—75 per centum of that exporter's base.

Calendar year 1975—50 per centum of that exporter's base.

Calendar year 1976—25 per centum of that exporter's base.

Sixty days after the end of each calendar year every exporter which exported timber during the calendar year shall file with the Secretary a report, in such form as he may require, stating the quantities exported under this subsection and the sources thereof, and in addition shall file a report of the quantities exported under subsections 204 (b) and 204(c) of this title and the sources thereof.

"SEC. 206. Whoever exports timber after January 1, 1974, shall permit access to related books, records, and accounts, and their log storage areas by the Secretary.

"SEC. 207. Whoever knowingly and willfully exports any timber in violation of this title, or knowingly and fraudulently files a false report, or fails to permit the Secretary access to his books, records, and accounts, and his log storage areas shall be fined not more than $10,000 or imprisoned for not more than one year or both for each such violation and shall not thereafter be permitted to export timber for a period of five years.

"SEC. 208. As used in this title—

"(a) The term "timber" means unprocessed coniferous timber: *Provided*, That for the purposes of this title, unprocessed timber consists of—

"(i) any logs, such as sawlogs, peeler logs, and pulp logs;

"(ii) cants, squares, and lumber exceeding four and one-half inches in thickness; and

"(iii) split or round bolts, or other roundwood not processed to standards and specifications suitable for end product use.

"(b) The term "Secretary" means the Secretary of Commerce.

"(c) The term "exporter" means any individual, corporation, association, firm, or other legal entity which sold timber under such terms that the seller delivered the timber either—

"(i) on board a truck or railroad car; or

"(ii) alongside a vessel in a manner usual in the port involved or on a dock designated and provided by the buyer

in such circumstances that the seller at that time reasonably believed that the timber so delivered would, in accordance with orders given by the buyer directly to the carrier, be transported by such truck, railroad car, or vessel to a foreign destination.

"(d) The term "United States" means the fifty States, and territories, possessions and trust territories of the United States.

"SEC. 29. The Secretary is authorized to issue such regulations as may be necessary to carry out the purposes of this title."

SECTION-BY-SECTION ANALYSIS

Section 201 provides that the proposal be referred to as the "Timber Export Administration Act of 1973."

Section 202 contains a series of findings on the part of the Congress generally outlining the reasons for the law.

Section 203 declares that it is national policy "to alleviate the harmful effects of the excessive exportation of [logs] by limiting the volumes thereof that may be exported from the United States."

Section 204(a) provides that, except for specific quantities of timber that are found to be surplus, no logs may be exported from Federal lands after January 1, 1974, and that no logs may be exported from any lands after January 1, 1977.

Section 204(b) establishes the procedures to be followed by the Secretary of Commerce in determining whether a given quantity of logs are surplus to "the needs of domestic users and processers." It requires, among other things: that the material be in log form; that the applicant for an export license must provide evidence that he has made a good faith effort to sell the logs to domestic processers; and that a public hearing be conducted to determine whether, in fact, the logs are surplus to domestic needs. After following these procedures, the Secretary of Commerce is authorized to issue a permit for the export of the specific quantity of logs under consideration.

Section 204(c) provides for a general exemption from coverage under the proposal for logs cut under Federal timber sales contracts entered into prior to March 1, 1973.

Section 205 outlines the procedures to be followed in order to phase out, over a three-year period, all non-federal log exports. First the Secretary determines the level of activity for each exporter during 1972. Next, he determines the level of activity for each exporter during 1973. Finally, to the extent an exporter's activity during 1973 exceeds his activity during 1972, the excess is to be deducted from his 1972 level in arriving at his base figure for allowable exports under the phase-out quota system.

Once these calculations are accomplished, the quota system goes into operation as follows: during 1974, each exporter will be allowed to export logs in a quantity up to 75% of his adjusted base allowance; in 1975, up to 50%; and, in 1976, up to 25%. Beginning on January 1, 1977, there will be no automatic quota for export from any non-federal lands.

Since this is the most complicated portion of the proposal, a few examples should help to understand its provisions.

EXPORTER ABC

During 1972, he exported 600 MMbf (million board feet) of logs. During 1973, he exported 500 MMbf. Since his 1973 activity is not in excess of his 1972 activity, 600 MMbf (his 1972 level of operations) becomes his "base". In 1974, ABC will be allowed to export, automatically, 450 MMbf (75% of the "base") of logs. In 1975, he can export 300 MMbf—in 1975, he can export 300 MMbf—in 1976, 150 MMbf.

EXPORTER XYZ

During 1972, XYZ exported 700 MMbf of logs. In 1973, he exports 800 MMbf. Since his 1973 level of operations is in excess of his 1972 level (by 100 MMbf) his 1972 total is adjusted by deducting the excess, thereby arriving at his allowable base of 600 MMbf. From there on, XYZ will be able to export the same quantity of logs from 1974 through 1976 as can his colleague, ABC.

Section 205 also requires each person who exports timber, under the phase-out quota system, or under the surplus quantities provision in section 204(b), or under the provisions of section 204(c), to file an annual report with the Secretary of Commerce detailing his precise level of exports and the sources of his logs.

Section 206 requires exporters to provide the Sccretary with access to "related books, records, and accounts, and [his] log storage areas."

Section 207 provides for a maximum penalty of $10,000 or one year in prison or both for each violation of the provisions of this title. Section 207 also provides that any party violating this title shall be prohibited from exporting logs for five years.

Section 208 contains definitions of terms used in the title. The definition of what constitutes "unprocessed timber" is generally the same as that currently used by the Secretary of Agriculture in enforcement of the Morse Amendment.

"Secretary" is defined as being the Secretary of Commerce.

Also contained in this section is a definition of what constitutes an "exporter" for purposes of this title. Generally, an exporter is one who sells the logs to a foreign purchaser. Such a definition obviates the necessity under current law of following logs through several transactions to determine whether a particular quantity of logs can be exported. By attaching the quota contained in section 205 to the final American party to a log export transaction, policing of the law will be made much easier than it would be were we to attach the quota to the growth of the timber.

The "United States" is defined as including the fifty States, and territories, possessions, and trust territories of the United States.

Section 209 authorizes the Secretary of Commerce to issue "such regulations as may be necessary to carry out the provisions of this title."

AMERICAN INTERNATIONAL TRADE IN SOFTWOOD LUMBER AND LOGS

	Lumber (MMbf, lumber scale)		Logs (MMbf, log scale)	
	Import	Export	Import	Export
1960	3,639.3	693.8	32.3	210.3
1961	4,013.4	618.2	57.1	432.2
1962	4,583.7	628.6	38.1	452.7
1963	5,032.0	743.1	44.1	879.6
1964	4,917.5	811.5	8.7	1,022.6
1965	4,898.1	778.9	13.5	1,111.4
1966	4,779.2	867.9	42.5	1,317.5
1967	4,798.1	965.2	33.9	1,873.6
1968	5,809.1	1,048.1	39.4	2,473.2
1969	5,854.0	1,023.8	41.7	2,316.8
1970	5,777.7	1,161.1	106.5	2,684.1
1971	7,249.0	936.2	55.7	2,233.4
1972	8,984.8	1,190.8	11.3	3,049.4

Note: For purposes of comparison, multiply the "log" figures by a factor of 1.6 for an approximate equivalent in terms of lumber measure.

Source: U S. Forest Service reports.

BALANCE OF TRADE ANALYSIS

(Softwood logs/lumber tradeoff)

I. Log exports from the United States, 1972

Board feet (scribner scale) exported ---------- 3,049,400,000
Per Mbf price on exported logs (all species) ---------- $136.02

Total dollar income derived from softwood log exports in 1972--- $414,780,000

II. Substituted lumber purchased from Canada, 1972

Board feet (lumber scale) imported equivalent to 3.05 Bbf volume ---------- 4,879,000,000
Per Mbf price on imported lumber (ave.) ---------- $173.75

Total dollar expenditure for softwood lumber import substitutes in 1972 ---------- $847,733,200

III. Loss in balance of trade caused by lumber/log trade-off

Substituted lumber cost------ $847,733,200
Log export income-------- less 414,780,000

Net deficit in balance of trade ---------- $432,953,200

Hon. Richard M. Nixon,
The White House,
Washington, D.C.

Dear Mr. President: We would like to bring to your attention a matter of considerable and growing concern to us all.

Due in large part to the volume of exports of softwood logs and lumber to Japan, lumber prices have soared over the past year. Since January 1, 1972, the cost of lumber on an average house has increased by $1200—$700 of that increase during the past month.

The great increase in lumber prices over the past year, and particularly in recent months, threatens the homebuilding industry and the homebuying public.

Last year foreign firms purchased a significant and rapidly increasing portion of our total supply of wood products—3.0 billion board feet of uncut logs. Ninety percent of this total was purchased by Japanese industry. In January, Japanese purchasers, shifting emphasis, began to indicate a significant interest in the purchase of processed lumber and were sending buying teams to the United States to purchase such products in order to feed Japan's continuing housing boom. Such action portends more dire consequences for America's economy and homebuilding industry.

An increase of $1,000 in the price of an average single-family house eliminates 2,000,000 Americans from the housing market. If log exports continue unchecked, lumber prices will continue to rise and thousands more will find it impossible to secure housing within their means. We will also stand to lose tens of thousands of jobs in the construction trades and wood products industry.

We, therefore, urge you to use your authority under the Export Administration Act of 1969, specifically section 3(2)(A) of that Act, to declare immediately a 6-month embargo on overseas shipments of softwood logs and such lesser period as may be necessary on lumber and plywood.

We would like to advise you that the Subcommittee on International Finance of the Senate Committee on Banking, Housing and Urban Affairs, will be conducting an inquiry into the log and lumber supply problem. We believe an embargo would calm the crisis atmosphere and give everyone concerned an opportunity to assess the situation under conditions more conducive to objectivity.

Thanking you for your consideration of our intense interest in this regard, we remain,

Sincerely

Bob Packwood,
Alan Cranston.

EXPORTING AMERICAN TIMBER AND IDAHO JOBS

Mr. CHURCH. Mr. President, in 1970, the United States exported 14 percent of its timber suitable for lumber production. When that wood is translated into homes for Americans, it totals 900,000 residential units, well over one-half of the housing starts in the Nation in 1970, and nearly half of the housing starts in 1971.

This hemorrhage of timber resources also represents another loss because the logs shipped abroad are not being processed in lumber mills within the United States. When timber is exported, workers in Idaho may lose their jobs. Six mills in Idaho have been shut down, despite highly favorable prices. Where once men worked, they now draw unemployment compensation. This is a condition which cannot be allowed to worsen. Idaho has not yet felt the full impact of log sales to Japan, but unless exports are controlled, log sales will spill over into Idaho forests as Japanese demand grows. There can be no doubt that Idaho forests will be the next target of foreign buyers.

The problem of log exports was forcefully brought to the attention of the Congress in 1968, In that year, Senator Morse and I, among others, succeeded in passing legislation designed to stop the flood of log exports from Federal lands. That legislation, which was subsequently renewed in 1970, limited total exports from Federal timber lands to 350 million board feet per year.

While the intent of that proposal was good, it has become apparent in recent months that more stringent controls are necessary, if we are going to prevent still more small operators from going broke.

The 350 million board feet limitation does not seem to be working. Exports from private lands have risen into a floodtide of logs moving to Japan.

The argument most often advanced in favor of this huge overseas tide of American logs is that it helps reduce the American balance-of-payments deficit. But that benefit is more apparent than real. To begin with, our Nation imports more lumber than it exports and, in addition to that fact, it is altogether feasible that if log exports were curtailed, Japan would purchase finished wood products from the United States. Satisfying her needs with higher priced finished lumber would aid the American balance of payments more than Japan's purchase of logs. If Japan needs our lumber, let her purchase finished lumber products made by American working men and women. Why should we export logs to Japan depriving our people of both needed wood fiber and jobs?

Who is it that gains from this exportation of American logs? It is certainly not the American homebuyer who, faced with ever-increasing lumber shortages, must wait months for a home and pay large additional amounts for its construction. Our sawmill workers gain nothing. in fact, they have the most to lose, since the raw material from which they make their livelihood is being shipped abroad.

As for the woodsmen, themselves, who cut down the trees, they are just as well off felling logs for processing in our own mills as for shipment to Japan. The domestic demand for lumber is so great that there is ample work just keeping the American market supplied. In fact, as previously noted, we are importing 11.5 billion board feet of lumber every year to meet the internal demand of the U.S. market.

I, for one, believe that something must be done to stop this exodus of logs. If we

are to preserve a healthy lumber industry in Idaho, we must make it possible for small operators to buy the timber they need to keep their mills running and meet the demand for lumber here at home.

I am pleased to join with the Senator from Oregon in cosponsorship of his bill to restrict log exports. I ask unanimous consent that an outline of the provisions of the bill appear at this point in the RECORD.

I recognize, Mr. President, that log exports are not the only problem facing the timber operators of my State and the Northwest. Probably the largest single damage is being done by the failure of the Forest Service to keep its sales of timber up to allowable cuts. Recent figures indicate that the sales in Idaho are only running at 65 percent of allowable cut. This cannot help but have a serious impact upon the economy of my State.

The reason that the Forest Service is so far behind is simple. The Nixon administration has treated this agency as if it were an unnecessary frill. It has ordered cuts in the Forest Service budget of nearly $105 million. Some 20 percent of the agency's budget has been eliminated. Huge cuts have been made in reforestation, stand improvement, and advanced logging and conservation programs. Funds for roads and trails have been drastically cut. Forest research has been slashed by nearly $4 million at the very time we should be trying to find better ways to utilize more fully our forest resources. In addition, $9 million have been cut from fire control funds.

You cannot cut an agency's budget by 20 percent and not impair its efficiency. When the time comes to point the blame for reduced timber sales, a long finger should be pointed at the President's Office of Management and Budget which has shown little understanding or regard for the needs of the timber industry.

I plan to fight these cuts in the hope that the Forest Service can carry out its duties.

Mr. President, I ask unanimous consent that an outline of the proposal to ban log exports be printed in the RECORD.

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

OUTLINE OF THE PROVISIONS CONTAINED IN SENATOR FRANK CHURCH'S LOG EXPORT PROPOSAL

Section 201 provides that the proposal be referred to as the "Timber Export Administration Act of 1973."

Section 202 contains a series of findings on the part of the Congress generally outlining the reasons for the law.

Section 203 declares that it is national policy "to alleviate the harmful effects of the excessive exportation of [logs] by limiting the volumes thereof that may be exported from the United States."

Section 204(a) provides that, except for specific quantities of timber that are found to be surplus, *no logs may be exported from Federal lands after January 1, 1974, and that no logs may be exported from any lands after January 3, 1977.*

Section 204(b) establishes the procedures to be followed by the Secretary of Commerce in determining whether a given quantity of logs are surplus to "the needs of domestic users and processers." It requires, among other things: that the material be in log form; that the applicant for an export license must provide evidence that he has made a good faith effort to sell the logs to domestic processers; and that a public hearing be conducted to determine whether, in fact, the logs are surplus to domestic needs. After following these procedures, the Secretary of Commerce is authorized to issue a permit for the export of the specific quantity of logs under consideration.

Section 204(c) provides for a *general exemption* from coverage under the proposal *for logs cut under Federal timber sales contracts entered into prior to March 1, 1973.*

Section 205 generally outlines the procedures to be followed in order to phase out, over a three-year period, all non-federal log exports (State and private). First the Secretary determines the level of activity for each exporter during 1972. Next, he determines the level of activity for each exporter during 1973. Finally, to the extent an exporter's activity during 1973 exceeds his activity during 1972, the excess is to be deducted from his 1972 level in arriving at his base figure for allowable exports under the phase-out qouta system.

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Since this is the most complicated portion of the proposal, a few examples should help to understand its provisions.

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The "United States" is defined as including the fifty States, and territories, possessions, and trust territories of the United States.

Section 209 authorizes the Secretary of Commerce to issue "such regulations as may be necessary to carry out the provisions of this Act."

By Mr. SCOTT of Pennsylvania:

S. 1034. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit the disposal of certain surplus property for court and law enforcement purposes. Referred to the Committee on Government Operations.

Mr. SCOTT of Pennsylvania. Mr. President, I am today introducing a bill to permit the disposal of certain surplus property for court and law enforcement purposes. Enactment of this measure would allow local governments to acquire excess Federal court facilities at little or no cost, under the same authority as these local bodies are now permitted to acquire parkland, educational buildings, housing, and the like.

This bill is nearly identical to S. 3184, which I introduced last year. The changes I have made in the updated version are for the most part technical in nature. Other changes reflect the suggestions of the executive agencies which commented on the bill. I am pleased to note that the Office of Management and Budget, the Department of Justice, the General Services Administration, and the Department of Health, Education, and Welfare all offered no objection to the enactment of this bill.

Because of the rush to adjourn the 92d Congress, the Senate Committee on Government Operations did not have an opportunity to consider S. 3184 more thoroughly. However, the distinguished chairman of the committee (Mr. ERVIN) has personally assured me that his committee would give this new measure its expeditious consideration.

The pressing need for additional courtroom space is well known. If the Federal Government can make some of its surplus court property available to the States and local governments, then it would free them to use some of their own funds to appoint additional judges and to further upgrade the system of justice. The city of Philadelphia provides a good example of the need for my bill. The old Federal courthouse at Ninth and Chestnut Streets will become vacant when the Federal judges move into the new Federal courthouse. City judges, who now operate under the most cramped conditions, could use the old courthouse to better carry on their work.

In an effort to promote the movement for criminal court reform, President Judge D. Donald Jamieson of Philadelphia's court of common pleas appointed the Philadelphia Justice Consortium on December 2, 1970, and commissioned it

to report on specified problem areas in the Philadelphia criminal courts. One of the areas to be studied was court facilities. The consortium was an association of five national organizations: the American Judicature Society, the Institute of Judicial Administration, the Institute for Court Management, the National College of the State Judiciary, and the National Council on Crime and Delinquency.

The consortium's report found that Philadelphia's city hall, the home of the city's criminal justice courts, was an inadequate facility for those courts and concluded that a new court building was a necessity. Some of the more obvious problems with city hall were the absence of sufficient jury rooms, the substantial acoustical difficulty, an inadequate lockup facility, and insufficient office space for judges. My bill squarely addresses these problems.

The idea of converting excess Federal courthouse space to lower courts is consistent with President Nixon's desire to help those court systems meet their responsibilities. As chairman of the Government Operations Committee and one of the senior members of the Judiciary Committee, Senator ERVIN is in a unique position to look at the positive impact which such a move would have on the law enforcement system. In addition, the Senator also served as a judge on North Carolina's Superior Court. Having had such experience, I am certain that he can now appreciate the need for the Federal Government to assist these lower courts in whatever way possible. Furthermore, it seems to make eminent good sense in terms of economical use of the taxpayers' money.

My bill, which is being offered as an amendment to the Federal Property and Administrative Services Act of 1949, specifies that excess courtroom space would be made available for lease or purchase at prices which "take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality." As such, there is no windfall to either party.

Mr. President, it is early in the session. I hope that this bill will receive prompt and favorable consideration by the Committee on Government Operations.

By Mr. MUSKIE (for himself, Mr. BAKER, Mr. BAYH, Mr. BIBLE, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. JAVITS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT of Pennsylvania, Mr. STEVENSON, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 1036. A bill to amend the Internal Revenue Code of 1954 with respect to legislative activity by certain types of exempt organizations. Referred to the Committee on Finance.

DEFINING PERMITTED LEGISLATIVE ACTIVITY BY TAX-EXEMPT ORGANIZATIONS

Mr. MUSKIE. Mr. President, for the past 2 years Congress has been studying the problem of defining the amount of legislative activity in which tax-exempt organizations can engage. Today I am introducing with Senators SCOTT of Pennsylvania, NELSON, and DOLE a bill we hope will write the last chapter in this debate. We are joined in cosponsorship by Senators BAKER, BAYH, BIBLE, BROCK, BROOKE, BURDICK, CHILES, CHURCH, CLARK, CRANSTON, EAGLETON, GRAVEL, HART, HARTKE, JAVITS, MCGOVERN, MCINTYRE, METCALF, MONDALE, MOSS, PASTORE, PELL, RANDOLPH, RIBICOFF, SCHWEIKER, STVENSON, TAFT, TOWER, TUNNEY, and WILLIAMS.

Current law, in section 501(c)(3) of the Internal Revenue Code, denies tax deductibility for contributions to otherwise eligible publicly supported charities engaging in "substantial activities" which attempt to influence legislation. This vague standard—that legislative activity not be substantial—has unpredictably, unreasonably, and unnecessarily restricted the worthwhile and legitimate legislative activities of these 501(c)(3) organizations.

For instance, the Chairman of the Board of Lincoln Center for the Performing Arts has explained how he was prevented from generating support for the National Endowment for the Arts because charities supporting cultural activities across the country were afraid to engage in "legislative activity." In Delaware a local YWCA was threatened with loss of its tax-exemption because it established a public affairs committee to contact local legislators. And the Maryland Association of Mental Health, which spoke out about legislation affecting the rights and care of mental patients, was challenged by the Internal Revenue Service for engaging in "substantial" legislative activities. In fact, after 18 months of uncertainty, the challenge was rejected when it was discovered that less than 5 percent of its activities consisted of appeals to legislators and to the general public and 4 percent of its activities consisted of research and reporting on legislative positions.

With such a vague standard—substantial activities—it is understandable that organizations would be challenged about legislative activities which were in fact minimal, and that the Internal Revenue Service auditors might use standards which differ from case to case. That is why we must enact clear standards against which organizations can judge the legitimacy of their legislative activities.

Current law makes the standard even more inequitable because it allows businesses, under a tax code provision enacted in 1962, to deduct all expenses incurred in lobbying, while public charities have no such privilege. Our bill reduces this inequity, even though it would still not place publicly supported charities on an equal footing with business interests. When the interests of businesses and public charities conflict, business organizations would still be in a relatively stronger position, with regard to tax benefits, to carry out their lobbying activities. But more important, the interests of public charities are usually those which most businessmen would support, and on which there is no conflict.

The amount of attention which Congress has paid to this issue in the past makes me hopeful that the bill we introduce today can be enacted in this Congress. In 1971 I introduced S. 1408, which was patterned after a resolution adopted by the American Bar Association. In 1972 Senator SCOTT and I introduced S. 3063, which represented a modification of my earlier proposal. This measure was eventually cosponsored by 42 Senators. At the same time, members of the House Ways and Means Committee introduced another version, H.R. 13720. This bill was the subject of 3 full days of hearings by the House Ways and Means Committee last May 3, 4 and 5, and was supported by over 150 public charities. Supporters included such diverse organizations as the National Audubon Society, the National Association of Mental Health, the American National Red Cross, and the League of Women Voters. To demonstrate the breadth of this endorsement, I will ask that the list of organizations supporting this proposal be printed in the RECORD.

After careful study, Senators SCOTT, NELSON, DOLE, and I have determined that the bill we are introducing today, which is identical to the House bill (H.R. 13720) introduced in the last session, now represents the best proposal for defining and liberalizing permitted legislative activity by public charities. We feel that it would correct the current uncertainty of the law, correct the inequity caused by full availability of tax deductions for business lobbying, and provide public charities with flexibility to provide legislators in Congress and in the States with valuable information on activities that relate to their charitable purpose.

Our bill would apply only to publicly supported charitable organizations—those which have qualified under section 501(c)(3) to be exempt from income tax and to allow a contributor to deduct contributions to them. These section 501(c)(3) organizations are consistently subject to Treasury Department review on whether or not they legitimately deserve this tax status. If such organizations elect to be covered by our bill, their tax exempt status could not be revoked unless their expenditures for legislative activities normally made up more than 20 percent of their overall budget. However, not more than 5 percent of their budget could be used for legislative activities other than public or private communications with governments, legislative bodies, or the members of the organizations on matters directly relating to their charitable purpose. This provision would thus allow a limited amount of public education campaigns. In addition, our bill would explicitly permit without restriction the current practices of allowing tax-exempt organizations to present their views on matters affecting their own tax-exempt status, to provide technical advice when requested, and to distribute the products of nonpartisan study and research.

We feel that this bill provides adequate safeguards against abuse. It does not apply, for instance, to private foundations supported primarily by investment income. And it does not change the current absolute prohibition against section 501 (c) (3) organizations participating in or intervening in any political campaign on behalf of any candidate for public office.

An identical bill will be introduced today in the House by Representative SYMINGTON and 44 cosponsors.

We believe that the legislative process works best when exposed to the free and full expression of views by all individuals and groups. The present Internal Revenue Code limitation on the activities of public charities unwisely excludes from this process a diverse and important class of organizations.

I ask unanimous consent to include in the RECORD a list of organizations which indicated their support of this measure in public hearings last year, and the text of the bill we introduce today.

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

ORGANIZATIONS WHICH SUPPORTED THIS BILL

American Bar Association.
American Civil Liberties Union.
Easter Seal Society for Crippled Children and Adults of Arkansas.
Liberty Lobby.
Lincoln Center.
National Assembly for Social Policy and Development.
National Association for Mental Health.
National Association of Railroad Passengers.
National Audubon Society.
National Health Council, Inc.
National Jewish Community Relations Advisory Council.
National Urban Coalition.
United Way of America.
The Repertory Theater of Lincoln Center, Inc.
The Library & Museum of the Performing Arts.
The Chamber Music Society of Lincoln Center, Inc.
The Metropolitan Opera Association.
The Film Society of Lincoln Center, Inc.
The Juilliard School.
New York Philharmonic.
The City Center of Music & Drama, whose performing companies include: New York City Ballet, New York City Opera, City Center Drama Co., City Center Light Opera, Gilbert & Sullivan Co., City Center Joffrey Ballet.
American Academy of Family Physicians.
American Academy of Pediatrics.
American Association of Dental Schools.
American Association for Inhalation Therapy.
American Cancer Society.
American College Health Association.
American College of Preventive Medicine.
American Diabetes Association.
American Heart Association.
American Medical Technologists.
American National Red Cross.
American Occupational Therapy Association.
American Osteopathic Association.
American Public Health Association.
American Social Health Association.
American Society of Clinical Pathologists.
Arthritis Foundation.
Association of Schools of Allied Health Foundation.
Association of Schools of Public Health.
Epilepsy Foundation of America.
Goodwill Industries of America.
Muscular Dystrophy Association of America.
National Association of Social Workers.
National Council on the Aging.
National Council on Alcoholism.
National Council for Homemaker-Home Health Aide Services, Inc.
National Cystic Fibrosis Research Foundation.
National Environmental Health Association.
National Hemophilia Foundation.
National Kidney Foundation.
National League for Nursing.
National Medical Association.
National Multiple Sclerosis Society.
National Safety Council.
National Society for the Prevention of Blindness.
National Tuberculosis and Respiratory Disease Association.
Student American Medical Association.
United Cerebral Palsy Association.
American Psychiatric Association.
American Foundation for the Blind.
Big Brothers of America.
Child Welfare League of America.
Community Services of Pennsylvania.
Council of Jewish Federations and Welfare Funds, Inc.
Council on Social Work Education.
Family Service Association of America.
International Social Service, American Branch.
National Accreditation Council for Agencies Serving the Blind and Visually Handicapped.
National Association for Statewide Health and Welfare.
National Association of Housing and Redevelopment Officials.
National Council of Jewish Women.
National Council of Young Men's Christian Association of the U.S.A.
National Council on Crime and Delinquency.
Young Women's Christian Association—National Board.
American Association of School Administrators.
American College of Obstetricians and Gynecologists.
American College of Surgeons.
American Council of Learned Societies.
American Council on Education, Commission on Federal Relations.
American Library Association.
The American Occupational Therapy Association, Inc.
American Optometric Association.
American Psychological Association.
American Symphony Orchestra League.
Association of American Colleges.
Association of American Medical Colleges.
Arizona Wildlife Federation.
California Institute of Technology.
Council for Financial Aid to Education, Inc.
Council of Community Services.
Federation of Western Outdoor Clubs.
Florida Wildlife Federation.
The Garden Club of America.
Greater Portland Arts Council.
Illinois Wildlife Federation.
League of Women Voters of the United States.
Common Cause.
Kamehameha Schools/Pauahi Bishop Estate, Honolulu, Hawaii.
Medical Library Association.
Michigan United Conservation Clubs.
Milwaukee County Conservation Alliance, Inc.
National Congress of Parents and Teachers.
National Music Council.
National Trust for Historic Preservation in the United States.
National Wildlife Federation.
Nevada Wildlife Federation, Inc.
Sierra Club.
State Association for Community Services.
State Communities Aid Association.
Trout Unlimited.
United Cerebral Palsy Association, Inc.
The Conservation Law Society of America.

S. 1036

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

SECTION 1. LOSS OF EXEMPT STATUS.

(a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from income tax) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

"(1) GENERAL RULE.—In the case of an organization described in paragraph (2) that has elected under paragraph (3) to have this subsection apply, exemption from taxation under section 501(a) shall not be denied because a substantial part of the activities of such organization consists of carrying on propaganda or otherwise attempting to influence legislation, unless, with respect to the total of the amounts (including administrative expenses) paid by such organization (other than amounts chargeable to capital account) to accomplish one or more purposes described in section 170(c)(2)(B) (relating to religious, charitable, etc., purposes)—

"(A) amounts paid or incurred by such organization during each taxable year to influence legislation (as defined in paragraph (5)) normally exceed 20 percent, or

"(B) amount paid or incurred by such organization during each taxable year to influence legislation (within the meaning of paragraph (5)(A)) normally exceed 5 percent.

"(2) ORGANIZATIONS TO WHICH THIS PROVISION APPLIES.—An election under paragraph (3) to have this subsection apply may be made by any organization described in—

"(A) section 170(b)(1)(A)(i) (relating to churches and conventions or associations of churches),

"(B) section 170(b)(1)(A)(ii) (relating to educational institutions),

"(C) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

"(D) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

"(E) section 170(b)(1)(A)(v) (relating to governmental units),

"(F) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

"(G) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

"(H) section 509(a)(3) (relating to organizations supporting certain types of public charities), except that for purposes of this subsection, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

"(3) ELECTIONS.—Any organization described in paragraph (2) may elect, in such manner and at such time as the Secretary or his delegate may prescribe, to have the provisions of this subsection apply to such organization.

"(4) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under paragraph (3) shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the earlier of (i) the date the election is revoked (under regulations prescribed by the Secretary or his delegate) or (ii) the date such organization ceases to be described in paragraph (2).

"(5) INFLUENCING LEGISLATION.—For purposes of this subsection the term "influenc-

ing legislation', with regard to an organization, means—

"(A) any attempt (other than an attempt described in subparagraph (B) or (C)) to influence any legislation (including an attempt to affect the opinion of the general public or any segment thereof),

"(B) any attempt to influence legislation, on a matter which directly affects any purpose for which such organization is organized and operated, through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation, and

"(C) any attempt to influence legislation, on a matter which directly affects any purpose for which such organization is organized and operated through direct communication of information between such organization and one or nore of its members,

other than through making available the results of nonpartisan analysis, study, or research; the term 'influencing legislation', with regard to an organization, does not include the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be, nor does it include an appearance before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to such organization; the term 'legislation' includes action with respect to acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, by any similar governing body outside the United States, or by the public in a referendum, initiative, constitutional amendment, or similar procedure; the term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of acts, bills, resolutions, or similar items."

(b) Section 501(c)(3) of such Code is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation (except as otherwise provided in subsection (f)),".

SEC. 2. DISALLOWANCE OF DEDUCTION FOR CONTRIBUTIONS TO INFLUENCE LEGISLATION.

(a) Section 170(f) of such Code (relating to disallowance of charitable contribution deductions in certain cases) is amended by adding at the end thereof the following new paragraph:

"(7) CONTRIBUTIONS TO INFLUENCE LEGISLATION.—No deduction shall be allowed under this section for a contribution for the use of and organization described in subsection (c) if the contribution is made for the purpose of influencing legislation (as defined in section 501(f)(5))."

SEC. 3. CONFORMING AMENDMENTS.

(a)(1) The following sections of such Code are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," wherever it appears therein and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation (within the meaning of section 501(c)(3)),":

(A) Section 170(c)(2)(D) (relating to the definition of charitable contributions);

(B) Section 2055(a)(2) relating to transfers for public, charitable, and religious uses);

(C) Section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses);

(D) Section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(E) Section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(2) Sections 2055(a)(3) and 2106(a)(3) of such Code (relating to transfers for public, charitable, and religious uses) are each amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," wherever it appears therein and inserting in lieu thereof "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda or otherwise attempting to influence legislation (within the meaning of section 501(c)(3)),".

(b) Sections 2055(c) and 2522(c) of such Code (relating to disallowance of charitable contributions in certain cases) are each amended by adding at the end thereof the following new paragraph:

"(3) CONTRIBUTIONS TO INFLUENCE LEGISLATION.—No deduction shall be allowed under this section for a contribution for the use of an organization described in section 170 if the contribution is made for the purpose of influencing legislation (as defined in section 501(f)(5))."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall be applicable to taxable years beginning after the date of the enactment thereof and to estates of decedents dying after the date of the enactment thereof.

Mr. NELSON. Mr. President, I am pleased to join Senators MUSKIE, SCOTT, and DOLE as a principal cosponsor of a bill to allow publicly supported charitable organizations to communicate directly with Congress and State legislatures, and to allow their members to express their views on legislation without jeopardizing the charities' tax exemption. The present law governing legislative activities of public charities is unduly restrictive, difficult to administer, highly discriminatory, inconsistent, and undemocratic. The present law effectively inhibits a diverse, informed, and important segment of our society from presenting its views either to Congress or State and local legislative bodies, and deprives legislators of the experience and knowledge of these charities.

A similar bill last year received wide bipartisan support. Russell E. Train, Chairman of the Council on Environment Equality, in testifying on a modified version of this bill before the House Committee on Ways and Means last year stated:

The administration strongly supports the objectives of (the modified bill) to clarify the tax treatment of certain exempt organizations in connection with their legislative activities. . . . In providing guidance on the extent to which public charitable organizations under Section 501(c)(3) of the Code can make a contribution to the legislative process, the bill addresses an important and long-felt need, and goes far toward correcting an inequity in existing law.

Organizations are an integral part of a democracy. In a Nation of over 200 million persons, an individual, while seldom having an influence on the legislative process by himself, can have a profound effect if he allies himself with others of similar views. More than 100 years ago, Alexis de Tocqueville, one of the keenest observers of the United States noted that joint activity was necessary in a democracy. He stated in 1840:

If men living in democratic countries had no right and no inclination to associate for political purposes, their independence would be in a great jeopardy.

Forty-eight years later, Lord Bryce also noted the importance of associations in this country:

Such associations have great importance in the development of opinion, for they rouse attention, excite discussion, formulate principles, submit plans, embolden and stimulate their members, produce that impression of a spreading movement which goes so far towards success with a sympathetic and sensitive people . . . (t)his habit of forming associations . . . creates new centers of force and motion, and nourishes young causes and unpopular doctrines into a self-confident aggressiveness.

These are some of the reasons why certain organizations founded by religious, charitable, scientific, or educational purposes are allowed tax exempt status under section 501(c)(3) of the Internal Revenue Code. These organizations have a rich tradition in our history and tax law.

Religious, educational, and charitable organizations were exempt from tax as early as 1894. The same exemption was contained in the Excise Tax Act of 1909 and in the first modern tax law passed in 1913. None of these laws contained any limitation of the legislative activities of the charitable organizations.

In 1934, however, the law governing the exemption of, and the deductibility of contributions to charitable organizations was amended by adding to the definition of charitable organization the phrase "no substantial part of the activities of which is carrying on the propaganda or otherwise attempting to influence legislation." This language remains in the tax law today. The legislative history of this amendment is scanty and obscure. The amendment was not recommended by the Treasury Department, but was added to the bill by the Senate Finance Committee. The amendment was intended principally to bar deductions for contributions to an organization advancing the donor's selfish economic interests and was phrased more broadly only because of the difficulty of writing any standard of selfishness into the law.

In discussing this amendment, Senator Reed stated in the Senate Debate on the Revenue Act of 1934:

Mr. President, as that amendment is worded, it would apply to the society for the Prevention of Cruelty to Animals, *or any of the worthy institutions that we do not in the slightest mean to effect*. . . . There is no reason in the world why a contribution made by the National Economic League should be deductible as if it were a charitable contribution if it is a selfish one made to advance the personal interests of the giver of the money. That is what the committee was trying to reach; but we found great difficulty in phrasing the amendment. I do not reproach the draftsmen. I think we give them an impossible task, *but this amendment goes much further than the committee intended to go.*

Take the case of those who are urging the adoption of the child-labor amendment. Certainly they are not acting from selfish motives, and yet almost their entire activity is an effort to influence legislation.

Senator Reed's misgivings have been borne out by events. During the Ways and Means hearings on this issue last year, representatives of some 150 national public charities testified in support of this bill and expressed their difficulty with the present law. Their testimony clearly demonstrates public charities' great reluctance in expressing their views on legislative matters for fear of losing their tax-exempt and tax-deductible status.

This prohibition on the legislative activities of public charities is particularly unfair, because in 1962 Congress permitted business organizations for the first time to take income tax deductions for certain lobbying expenses related to legislation of direct interest to them. In support of this action, the House Ways and Means Committee reported (H. Rept. No. 1447, 87th Congress, second session, 17 (March 16, 1962)):

> It is also desirable that taxpayers who have information bearing on the impact of present laws, or proposed legislation, on their trades or businesses not be discouraged in making this information available to the Members of Congress or legislators at other levels of government. The presentation of such information to the legislators is necessary to a proper evaluation of their part of the impact of present or proposed legislation.

These words have equal applicability to public charities. The tax law should enable an organization to protect the public interest to the same extent that another organization can protect economic interest.

The bill we are introducing today would make several improvements in existing law. It would allow public charities to participate in the legislative process, but is carefully drafted to provide significant safeguards against abuse. First, the bill applies only to public charities—that is, educational institutions, hospitals, churches, nonprofit environmental organizations, and other publicly supported charities.

Second, and most importantly its mechanism is elective, permitting public charities, including churches, either, first, to choose the bill's new quantitative tests on legislative activities, or second, to continue under the existing insubstantial activities rule.

Third, under the election, a public charity's exemption would not be jeopardized so long as its spending to influence legislation normally did not exceed 20 percent of its total expenditures to accomplish its exempt purposes. At the same time, no more than 5 percent of its total expenditures could be for grassroots activities—that is, attempts to affect the opinion of all or part of the general public.

Fourth, the bill makes clear the types of legislative activities in which an electing public charity may engage. Under the general 20 percent rule, first, they must relate to a matter which directly affects any purpose for which such organization is organized and operated, and second, they must consist of:

First. Testimony before Federal, State, and local legislative committees;

Second. Communications directly with members and employees of legislative bodies and with other Government officials or employees who participate in the formulation of legislation; or

Third. Direct communication of information between the organization and its members.

Fifth, the bill also specifies the types of other related activities—not considered expenditures to influence legislation—in which electing public charities may engage:

First. Making available the results of nonpartisan analysis, study, or research;

Second. Providing technical advice or assistance in response to a written request by a governmental body or committee; and

Third. Appearing before or communicating to a legislative body on issues which might affect the organization's own existence, powers, or duties, its tax-exempt status, or the deduction of contributions to it.

Beyond this, two inherent safeguards carefully limit the scope of this bill.

First, private foundations are not eligible to take advantage of this legislation. Thus, all restrictions imposed on private foundations by the 1969 Tax Reform Act remain wholly in effect.

Second, unaltered is the absolute ban on electioneering contained in present law under code section 501(c)(3)—that is, the flat prohibition against participating or intervening in political campaigns on behalf of candidates for public office.

This bill would allow greater participation by private citizens in public affairs, open the legislative process to a wider and more balanced presentation of views and greatly assist all legislators by providing them the benefits of the experience and knowledge of public charities. These organizations represent the public in many important areas such as health, education, and the environment. These groups have much information to contribute and a wide range of helpful experience that could greatly assist the consideration and enactment of this country's laws. Democracy is served best when all views are heard.

Finally, my sponsorship of this bill does not deny, to any extent, the very compelling arguments that parts of section 501(c)(3), conditioning the availability of a tax exemption on the promise to forego attempts to influence legislation, violates the first amendment's guarantee of freedom of speech and the right to petition the Government. The attempt to persuade legislative action is an exercise of the first amendment right to petition. As such, it may not be the occasion for the imposition of a penalty whether it take the direct form of a fine or the more indirect form of the denial of a Government benefit—tax exemption—to which the organization is otherwise entitled. This is particularly so where, as here, there is no "compelling governmental interest" which would warrant abridging the right of charitable organizations to communicate with their representatives.

By Mr. HUMPHREY:

S. 1037. A bill to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973. Referred to the Committee on Agriculture and Forestry.

EMERGENCY SCHOOL LUNCH COMPENSATION

Mr. HUMPHREY. Mr. President, I offer for introduction today, a bill to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for the fiscal year 1972–73.

For the current fiscal year, the Federal budget for the school lunch program calls for a contribution in the form of donated foods in an amount of 7 cents per meal. The intent of the Department of Agriculture to supply such a level of commodity assistance was confirmed during a hearing on July 28, 1972, before a Subcommittee of the Senate Committee of Agriculture and Forestry. Senate Report 92–1027 includes an exchange of correspondence between Senator ALLEN and the Department of Agriculture in which the Department affirms its intent to supply a 7-cent level of donated commodity support.

Since the July 28 hearing it has become clearly evident that the Department will be unable to supply donated commodities at the 7-cent level. No beef products have been purchased for donation to schools this year and only small amounts of pork, whereas both of these foods were supplied in liberal quantities last year to the amount of some $80 million for the two products. The details of this situation, and its impact on the financial status of individual school lunch programs, were set forth in the testimony of representatives of the American School Food Service Association in a hearing on February 5, 1973, before the Senate Committee on Agriculture and Forestry.

I want to make it clear at this point that I am not accusing the Department of Agriculture of bad faith for failing to supply the level of commodity support which had been promised. All of us know what has happened to commodity markets and prices in the past few months. The Department has, perhaps belatedly, attempted to purchase beef and pork products but has been unable to do so.

Accordingly the bill I am introducing today would simply direct the Secretary of Agriculture to make each grant to the State School Lunch Agencies in lieu of the foods which had been promised, but not delivered. This does not require any new or supplemental appropriations. The money is already budgeted and programed for the school lunch program.

Mr. President, a bill similar to the one I am introducing today already has been introduced in the House by the distinguished chairman of the House Education and Labor Committee, Congressman CARL D. PERKINS, of Kentucky. Congressman PERKINS informed me earlier today that he expects committee and House action on this bill very soon.

I would hope and urge, Mr. President, that as soon as the House completes its action on this bill that the Senate Committee on Agriculture and Forestry and the Senate act on it promptly.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

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

S. 1037

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

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programmed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act to provide an effective and immediate solution to this nutritional crisis.

SCHOOL PURCHASES OF FOOD SUPPLIES

SEC. 2. Section 6 of the National School Lunch Act is amended by adding at the end thereof the following new paragraph and by redesignating the existing portions of said section as paragraph (a):

"(b) As of March 15, 1973, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during the fiscal year ending June 30, 1973, to States for school food service programs under the provisions of this section and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for the fiscal year ending June 30, 1973, the Secretary shall pay to State educational agencies, by not later than April 15, 1973, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of March 15, 1973, of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act during the fiscal year ending June 30, 1972, bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in the nonprofit private schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in nonprofit private schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act during the fiscal year ending June 30, 1972, bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of nonprofit private schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under Title 7, subtitle b, chapter II, subchapter a, parts 210 and 220.

"(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 USC 612c), to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

"(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of Section 7 of the National School Lunch Act."

By Mr. THURMOND:

S. 1038. A bill to amend title 37, United States Code, to authorized travel and transportation allowances to certain members of the uniformed services in connection with leave. Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, the purpose of this bill is to allow more equity in the leave policy for those small numbers of individuals in the military forces who receive consecutive overseas assignments in making a permanent change of station.

Under present law, uniformed personnel who are ordered to consecutive overseas assignments are paid only travel and transportation allowances between the two duty stations by the most direct route.

Therefore, if the member desires to return for a visit with his family in the United States or to relocate his family back in the United States he must bear this travel expense, as well as use annual leave time.

Under the legislation I am proposing today uniformed members of the service would be permitted to travel from their duty station back to the United States and then to their new station.

Four examples may be used to illustrate the breadth of this legislation.

First, in cases where an unmarried military individual is given a consecutive overseas tour, this bill would allow travel and transportation expenses for a return to his home of record or some designated location no greater distance than the home of record.

Second, a married individual on an unaccompanied tour moving to another unaccompanied tour would be permitted the same privilege.

Third, a married individual moving from an accompanied overseas tour to an unaccompanied overseas tour would be allowed to return to the United States for the purpose of relocating family members prior to assuming duties at the consecutive overseas duty assignment.

Fourth, individuals serving an unaccompanied overseas tour who have been given a consecutive overseas tour to a location where dependents may go would be allowed to return to the United States and assist their dependents in relocating to the new assignment.

Mr. President, in earlier consideration of similar proposals the Defense Department estimated some 8,000 individuals would be affected and the annual cost would approximate $2.5 million.

With the declining force levels this cost estimate could be reduced but regardless, this legislation is justified on the of fair treatment for service personnel who either by choice or at direction of their Government serve consecutive overseas tours.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

S. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 37, United States Code, is amended—

(1) by inserting after section 411a of such chapter a new section as follows:

"§ 411b. Travel and transportation allowances: travel performed in connection with certain leave

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member who—

"(1) is stationed outside the 48 contiguous States and the District of Columbia;

"(2) is ordered to make a change of permanent station to another duty station outside the 48 contiguous States and the District of Columbia; and

"(3) is going to or is returning from a restricted area in which dependents are not authorized

may be authorized (1) travel and transportation allowances in connection with authorized leave from his last duty station to that location where his dependents were or will be moved under the provisions of this chapter, or to that location where a dependent resides, or to a place no farther distant than his home of record if he is a member without dependents; and (2) travel and transportation allowance from such place to his designated post of duty.

"(b) The allowances prescribed under this section may not exceed allowances authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status."; and

(2) by inserting in the table of sections at the beginning of such chapter the following new item:

"411b. Travel and transportation allowances: travel performed in connection with certain leave."

immediately below

"411a. Travel and transportation allowances: travel performed in connection with convalescent leave."

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1039. A bill to authorize appropriations for additional costs of land acquisition for the National Park System. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to authorize appropriations for additional costs of land acquisition for the National Park System.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the communication be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 16, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: We enclose herewith a draft bill "To authorize appropriations for additional costs of land acquisition for the National Park System."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The mandatory provisions of titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646; 84 Stat. 1894) impose substantial additional costs and expenses on the National Park Service in connection with its land acquisition program. These additional amounts, for moving expenses and other relocation benefits, together with the increased administrative expenses incurred in connection with providing these benefits, are chargeable against the existing statutory ceilings on amounts authorized to be appropriated for land acquisition which were considered and imposed by the Congress prior to January 2, 1971, the effective date of the Act. Of course, land acquisition estimates presented to the Congress prior to that time did not include costs attributable to the benefits provided for in the later enactment.

It is anticipated that the increased costs, including administration costs, due to these benefits will be an amount approximately 12 percent to 15 percent above the present authorization ceilings. Clearly, then, unless appropriations are authorized to supply these additional amounts, the land acquisition program for the National Park System could not be completed within the ceilings imposed. In each instance, as funds would be exhausted or nearly exhausted, individual amendatory legislation would be required—and serious delays in acquisition could be experienced-pending congressional action. Of course new legislation authorizing additional land acquisition that is considered by subsequent Congresses can be drafted so that authorizations reflect the increased costs.

Accordingly, the draft bill enclosed herewith authorizes additional appropriations for land acquisition for areas of the National Park System, in the amount of the actual costs and expenses payable or incurred by reason of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The bill makes these increases applicable to those authorizations approved prior to January 9, 1971, with one exception. We recommend an increased ceiling for projects approved prior to January 9, as opposed to the earlier effective date of P.L. 91-646 (January 2), because three new proposals, submitted prior to enactment of P.L. 91-646 without provision for relocation costs, were not finally approved until January 8. These are Gulf Islands National Seashore (P.L. 91-660), Voyageurs National Park (P.L. 91-661), and Chesapeake and Ohio Canal National Historical Park (P.L. 91-664). The bill also authorizes appropriation of additional sums under the omnibus parks legislation passed in April 1972 (P.L. 92-272, 86 Stat. 120), in order to pay relocation costs not included in the appropriation authorization ceiling of that legislation.

Acquisition cost estimates submitted to the Congress have in the past included our administrative expenses as a part of the total. However, the benefits now to be provided will increase these costs. For example, we may be required to render assistance to a displaced homeowner by helping him locate or construct a suitable replacement dwelling, obtain financing, and so on. It is apparent, therefore, that these added administrative expenses, if not recouped, could seriously deplete available funds. All future proposals will include an estimate of costs attributable to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

We strongly urge the favorable consideration of this bill in order to permit the continuation of the land acquisition program for the National Park System.

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

Sincerely yours,

NATHANIEL P. REED,
Assistant Secretary of the Interior.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1040. A bill to reform the mineral leasing laws, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to reform the mineral leasing laws, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 27, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To reform the mineral leasing laws, and for other purposes."

We recommend that this bill, a part of the environmental program announced February 15, 1973, by the President in his Environment and Natural Resources State of the Union Message, be referred to the appropriate committee for consideration and that it be enacted.

The Mining Law of 1872, as amended, and certain other related and supplemental laws govern the disposition of much of the mineral wealth on hundreds of millions of acres of federally owned land. During the almost one hundred years of its operation, the Mining Law of 1872 has played an important role in the development of this country. It has contributed to the settlement of large areas of the West and has provided much of the mineral base for our industry and technology.

Since 1872, however, the country's needs have changed a great deal, and as a result changes have been necessary in the Mining Law of 1872. In 1920 certain minerals, principally oil and gas, and coal, were taken out from under the Mining Law of 1872 and placed under a mineral leasing system. In 1955 Congress decided that certain other so called "common variety" minerals, principally sand, gravel and building stone, were more appropriately disposed of in fixed quantities at fair market value rather than letting the first person to discover it have the entire deposit.

A basic objective of the original Mining Law of 1872 was to encourage the prospecting for the development of minerals by offering as an incentive the right to a patent for the minerals discovered and the land they were discovered in. Where mining conflicted with other uses of public land the Secretary of the Interior had two choices; to withdraw the land from mining altogether or to permit mining locations to continue irrespective of its effect on other uses or the environment.

The two major revisions mentioned above, the Mineral Leasing Law of 1920 and the 1955 amendment to the Materials Act, incorporated two additional objectives with respect to those minerals to which they applied; discretionary authority to harmonize mining activity with the needs of other users and of the environment, and payment to the Federal Government for the minerals taken off the public domain.

The proposed Mineral Leasing Act of 1973 would place all minerals under a leasing system thereby continuing the historical trend towards discretionary disposal and a fair return to the public. At the same time it would to a large extent eliminate the artificial distinctions which resulted from piecemeal legislation. Hardrock minerals on public domain would be treated no differently from the same minerals on acquired lands.

The leasable lands would include all public lands except the Outer Continental Shelf, Indian lands, the national parks, wildlife refuges and wilderness.

All commercial prospecting on Federal lands would be under a Federal prospecting license which would permit full environmental protection, which would be continued under the leasing system.

Leases would be issued by competitive bidding for all minerals with the exception of those minerals now covered by the 1872 mining law. For those minerals, competitive bidding would be required for lands which the Secretary has reason to believe contain valuable deposits. Otherwise, the leases would be non-competitive.

Pressure to reform the Mining Law of 1872 has been growing for many years, both within the mining industry as well as the public at large. Increasing conflicts between mineral activity and other uses of the land, concern for abuses of the mining law to obtain vacation homesites, concern for environmental protection and the frustration and uncertainty to mineral developers of a complex system of overlapping and archaic location requirements, have contributed to this pressure.

We feel that the proposed bill represents a balanced approach to promoting the exploration and production of the minerals on which our society depends, coordinating competing uses of the land, providing a fair return to the public, and providing the maximum feasible protection of the environment.

Reform of the mining and mineral leasing laws is long overdue. We urge that Congress act on this proposal without delay.

The Office of Management and Budget has advised that enactment of this proposed bill would be in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1041. A bill to provide for the management, protection, development, and sale of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to provide for the management, protection, development, and sale of the national resource lands, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask

unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

Hearings are scheduled for March 1 on this legislation and on S. 424, my own bill on this subject.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 27, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a bill "To provide for the management, protection, development and sale of the national resource lands, and for other purposes."

We recommend that this bill, a part of the environmental program announced February 15, 1973, by the President in his Environment and Natural Resources State of the Union Message, be referred to the appropriate committee and that it be enacted.

With this bill, this Department is proposing legislation which, for the first time, would state the national policies and guidelines governing the use and management of 450 million acres of national resource lands administered by the Secretary of the Interior through the Bureau of Land Management.

The national resource lands are the largest system of Federal lands, but for many years they were neglected. From 1812 to 1946 they were under the custodial administration of the General Land Office in the Department of the Interior. Its primary responsibility was to survey the land and convey it to qualified applicants. In 1934, pursuant to the Taylor Grazing Act, the Grazing Service was created within the Department. Its responsibility was to administer a grazing district management program designed to protect and regulate the use of the public range lands. The Bureau of Land Management was created in 1946 primarily through the consolidation of the functions of these two agencies.

The variety of responsibilities of the Bureau of Land Management is extraordinary among the Federal resource management agencies. Briefly, it has responsibility for the management of 450 million acres of national resource lands as well as limited management responsibilities on millions of acres of withdrawn lands. It has joint responsibility with the Geological Survey for the administration of the mineral laws on the Outer Continental Shelf and on the over 800 million acres of public domain, acquired lands and lands in which there are mineral reservations. In all, it has at least a part in administering about 60% of the Federal lands. The Bureau also keeps the basic public land records and does land boundary surveys for most Federal lands.

Despite these extensive responsibilities, Congress has never clearly defined the Bureau's mission or the Bureau's authority to accomplish its mission. Unlike the National Park Service and the National Forest Service, the mission and authority of the Bureau of Land Management must be gleaned from some 3,000 land laws which have accumulated over some 170 years.

This piecemeal collection of laws is sometimes conflicting and is grossly inadequate. The Bureau does not have essential administrative authority enjoyed by other Federal agencies such as a working capital fund, authority to enforce its rules and regulations and authority to contract with State and local law enforcement agencies for protection of lands under its jurisdiction.

The bill submitted with this letter would provide the basic mission statement and authority for management, sale, and the administration of the national resource lands. The format of the bill is designed in view of the long-range needs for a legislative base for the management of the national resource lands, as pointed out in various analyses, including that of the Public Land Law Review Commission. Each title of the proposal is designed to permit separate consideration of its provisions and to permit modifications without review of other titles. It also contemplates addition of new titles to cover other subject matter. And, it provides for a separate repealer title which will permit the accumulation of references to repealed legislation. This would be significant to preservation of existing valid rights.

Title I of the proposal, the "National Resource Lands Management Act", directs the Secretary to manage the national resource lands under principles of multiple use and sustained yield and in accordance with comprehensive land use plans which he must prepare. It provides the Secretary with guidelines for developing the land use plans including a requirement that he give priority to the protection of areas of critical environmental concern such as flood plains, coastal zones and scenic or historic areas. The Secretary is also directed to inventory the national resource lands and use the inventory in developing the land use plans. The inventory will provide a thorough knowledge of the national resource lands and purposeful plans for their use will greatly help us to arrest the destruction too long and too carelessly inflicted on those lands.

Title II, the "National Resource Lands Sale Act," would provide modern disposal authority. It would authorize the Secretary to sell tracts of national resource lands for fair market value if they are isolated and not suitable for management by the Bureau of Land Management or any other Federal agency, if they were purchased for a specific purpose and are no longer suitable for that or any other Federal purpose or if transfer would serve an overriding public benefit. It would also authorize the Secretary in certain instances to sell reserved mineral interests in lands to the surface owners.

Title III, the "National Resource Land Administration Act," would provide modern land management tools and procedures designed to facilitate achievement of the goals and objectives established for the national resource lands.

Specifically, it would provide the authority to acquire, by purchase or exchange, lands necessary for authorized programs or for blocking up existing land holdings. It would provide authority to issue a document of disclaimer of interest in land to which the United States no longer claims an interest.

It would establish a working capital fund for the Bureau of Land Management and it would afford a more efficient method of accounting for various programs and service operations of the Bureau of Land Management. But, it would not affect the present funding of operations on or the distribution of receipts from the national resource lands.

It would significantly enhance the management of the national resource lands by making violation of laws or regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees. The Secretary would be authorized to cooperate with State and local law enforcement agencies and to reimburse the agencies for services on national resource lands.

Title IV would authorize the Secretary to grant rights-of-way for such purposes as pipelines, powerlines and roads. It specifies conditions for granting such rights-of-way including provisions for protection of the environment.

Title V of the proposal would repeal a number of obsolete or superseded laws. These include a hodgepodge of land disposal laws and a number of laws relating to fees, charges, and other administrative matters.

The National Resource Lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

Enclosed is a detailed summary of the bill, including a discussion of the laws that would be repealed, and a draft environmental statement prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

By Mr. ERVIN:

S. 1042. A bill to insure the separation of Federal powers and to protect the legislative function by amending title I of the United States Code, to provide for the implementation of article I, section 7, of the Constitution. Referred to the Committee on the Judiciary.

THE POCKET VETO BILL

Mr. ERVIN. Mr. President, I introduce, for appropriate reference, a bill to implement article I, section 7, of the Constitution, thereby spelling out the so-called pocket veto power of the President. The measure is designed to help restore to the Congress its proper legislative function under the Separation of Powers principle.

This bill is identical to S. 1642, which I introduced in the 92d Congress on April 23, 1971. S. 1642 was reported favorably by the Subcommittee on Separation of Powers on June 18, 1971, but died in the Committee on the Judiciary at the close of the 92d Congress.

The need for legislation of this type was emphasized dramatically when President Nixon allegedly pocket vetoed the Family Practice of Medicine Act and a private relief act during the 4-day Christmas recess in 1970. Since that time, Senator KENNEDY has brought suit in the U.S. District Court for the District of Columbia to challenge the pocket veto of the Family Practice of Medicine Act. The distinguished Senator from Massachusetts has done a great service for the Congress by being its strong and able advocate in this lawsuit and I hope that his lawsuit may lead to a ruling favorable to the Congress. In order to further Senator KENNEDY's efforts I believe that the Congress should consider remedial legislation in the meantime in order to prevent abuses of the pocket veto power in the future, and this bill is introduced as a complement to Senator KENNEDY's suit.

The Subcommittee on Separation of Powers, of which I am honored to serve as chairman, became involved in the pocket veto controversy shortly after President Nixon's action and conducted a day of hearings on the subject on January 26, 1971. The facts uncovered at the hearings made me acutely aware of the potential for the abuse of constitutional principles when the pocket veto power is illegally invoked.

Mr. President, over the years the executive branch has exhibited a rather startling lack of sensitivity for the separation of powers principle, and often has disregarded the constitutional powers, prerogatives, and responsibilities of Con-

gress. The President's Christmas 1970 veto of two acts passed by Congress is but one example. Another glaring instance is the present impoundment of more than $12 billion in funds that have been lawfully appropriated by Congress for projects and programs it deemed important. There are other examples, but my focus here is on the President's pocket veto action, which constituted a raw assertion of Executive power.

The veto provision in the Constitution embodied in article I, section 7, assures the President of adequate time—10 days—to consider legislation passed by Congress, and this period of time cannot be narrowed or reduced, directly or indirectly, by Congress. The Constitution also provides that the Congress shall have adequate opportunity to consider the President's objections to a bill which he has vetoed, and to override it by a two-thirds majority. However, the Constitution provides that in those rare instances when the Congress shall "by their adjournment prevent" the return of a bill, such bill shall not become law. This last provision is popularly known as the pocket veto.

In the situation that occurred in 1970, the President was presented the Family Practice of Medicine Act and the private bill for relief of Miloye Sokitch on December 14. On December 25—which marked the expiration of the 10-day period, the intervening Sunday not counted—he claimed that the bills had been "pocket vetoed." President Nixon maintained that he had been prevented from returning the bills because the Congress had adjourned for Christmas. The Senate, in which the Family Practice of Medicine Act had originated, had recessed from the close of business on Tuesday, December 22, 1970, until 12 o'clock noon on Monday, December 28, 1970, a period of 4 days, excluding the intervening Sunday. Obviously, the President had ample time to consider these measures and to return them to Congress, which under no reasonable interpretation could be considered "adjourned" in the constitutional sense, but was merely in temporary recess for the Christmas holiday.

As I mentioned, the President had adequate time to consider these bills and to return them with his objections; by refusing to use the normal veto process appropriate to this situation, the President deprived the Congress of its opportunity to reconsider the measures in light of his objections. By relying on this alleged "pocket veto," the President was able to exercise an absolute veto—which is completely contrary to any constitutional provision. It is perfectly clear that the President grasped this opportunity to use the "pocket veto" in order to avoid returning the bills to the Congress where the veto almost certainly would have been overridden. The President thus avoided another political defeat by abusing his Executive power.

In order to carry out this ploy, the President and his lawyers in the Justice Department choose to look at the Christmas recess of Congress just as they would a sine die adjournment at the end of a session. I find no support in the Constitution for such an interpretation.

The Supreme Court has dealt with the "pocket veto" concept in two cases, neither of which is precisely on point.

In the *Pocket Veto* case, 279 U.S. 655 (1928), the Court ruled that a congressional recess of several months constituted an adjournment and was sufficient to support a pocket veto. In that case, the House had adjourned sine die at the end of a session, while the Senate had recessed for several months until reconvening to sit as a court of impeachment. Prof. Arthur S. Miller, of the George Washington University National Law Center and a consultant to the Subcommittee on Separation of Powers, said at our hearings that the Pocket Veto case "really is so different that it does not even bear much resemblance to what happened last month at the short recess for Christmas."

The other Supreme Court decision was in *Wright* v. *United States*, 302 U.S. 583 (1938). In that case, the Senate had adjourned for 3 days while the House was still in session. The Court held that a recess under article 1, section 5, clause 4, which permits one House to adjourn for up to 3 days without the consent of the other, does not constitute adjournment in the constitutional sense. The Court went on to hold that the officers of the House and Senate can receive bills and messages from the President when their respective House is in recess for 3 days or less.

Factually, the situation in 1970 differed from both the Pocket Veto and Wright cases. Neither the Senate nor House had adjourned sine die at the end of a session, which distinguishes it from the Pocket Veto case. Neither House was in session and the recess was for more than 3 days, which distinguishes it from the Wright case.

It is my hope that a definitive answer to the problem posed by President Nixon's alleged pocket veto can be obtained from the courts, perhaps by way of Senator KENNEDY's suit. However, the Congress in the meantime can and should act to prevent another abuse of the pocket veto power by defining what "adjournment" means.

A memorandum prepared in 1971 by the Congressional Research Service of the Library of Congress, at the request of the Subcommittee on Separation of Powers, properly describes the power of the Congress to define the meaning of "adjournment." I quote from that memorandum:

> By legislating to provide that the pocket veto will only be available in situations wherein Congress has adjourned *sine die*, Congress will be furthering the spirit of the Constitution as well as laying to rest an anomaly that has found its way into constitutional interpretation, an absolute veto by the President while the session of Congress continues. Such action would not only be perfectly proper but would conform to the requirements of constitutional interpretation as set forth in *Fairbanks* vs. *United States;* 181 U.S. 282: The true spirit of constitutional interpretation both as to grants to powers and in respect to prohibitions and limitations is to give full, liberal construction to the language, aiming ever to show fidelity to the spirit and purpose.
>
> Constitutional justification for such a definition can be found in Article I, Section 8, Clause 18, the "necessary and proper" clause of the Constitution, which provides that Congress shall have the power "to make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."
>
> The Courts have given to Congress great latitude in acting under the power conferred by this clause: By the settled construction and the only reasonable interpretation of this clause, the words "necessary and proper" are not limited to such measures as are absolutely and indispensably necessary, without which the powers must fail of execution; but they include all appropriate means which are conducive or adapted to the end to be accomplished, and which in the judgment of Congress will most advantageously effect it. *Legal Tender* Case, 110 U.S. 440 (1884).
>
> Surely the defining of the word adjournment to ensure that legislation enacted during a session will be available for reconsideration by that session if the President disapproves is an "appropriate means which (is) conducive (and) adapted to the end to be accomplished." The power of the President to approve or disapprove would not be disturbed or lessened in any degree whatsoever and neither would be the ten-day period which the Constitution grants him to be affected.
>
> The fact that the Supreme Court in the *Pocket Veto* case, supra 680, found in the absence of legislation, a definition of the word "adjournment" as used in Article I, Section 7, Clause 2 embodied within the Constitution that was broader than the one proposed should not act as a deterrent to such legislation construing this constitutional provision. The decision of the Supreme Court in *Veazie Bank* v. *Fenno* (8 Wall 533) wherein the Court held that: "a practical construction by Congress of a provision of the Constitution is entitled to great weight, especially in the absence of anything adverse to it in the discussions of the Conventions which framed and ratified the Constitution," is particularly applicable here because the Court noted in the *Pocket Veto* Case, supra 675, that, "No light is thrown on the meaning of the constitutional provision (veto power) in the proceedings and debates of the Constitutional Convention;" . . . Therefore, since there is nothing "adverse to it" in the record of the Convention, it would appear that it is within the power of Congress to provide the President and the Court with its construction of what an adjournment, within the meaning of Article I, Section 7, is.

Mr. President, almost daily the Members who are honored to sit in the Congress express outrage over the usurpation of congressional authority by the executive branch of the Government. In the instant controversy there is no doubt in my mind that the President violated the separation of powers doctrine. The Founding Fathers, in order to make Government by law secure, ordained that the Constitution and the laws enacted by Congress pursuant to it should be the supreme law of the land, and imposed upon all public officials the duty to obey them. This includes, of course, the President of the United States.

I think the controversy boils down to a very simple question: Will Congress demand that the executive branch of Government respect its rights, duties, and obligations as set out by the Constitution?

The bill I introduce today will help answer one aspect of that question by defining "adjournment" as "an adjournment sine die by either the Senate or the House of Representatives."

Essentially, the bill is designed to implement article I, section 7, of the Constitution. It will do that by providing:

First, that every bill passed by the Congress be presented to the President or to a person in the Executive Office of the President previously designated and authorized in writing by the President to receive it. This provision is in keeping with the present practice whereby enrolled bills are hand-carried by agents of the House or Senate to the White House, where they are received by a representative of the White House Records Office with a notation of the date and time of receipt. Delivery to the White House Records Office is considered presentation to the President, unless he has advised the Congress that he has withdrawn the authority of the officials of the White House Records Office to receive enrolled bills, as has been done at a time when the President is outside the country.

Second, that the President, if he approves a bill, shall place on it his signature and the date and, if he so desires, the word "approved."

Third, that if the President does not approve a bill presented to him, he shall return it with his objections to the House in which it originated. If he returns a bill prior to adjournment but when the respective House is not actually in session, then presentation to an officer designated and authorized by that House to receive bills under those circumstances shall constitute a return of the bill. Such officer shall call the matter to the attention of that House, through its presiding officer, on the next succeeding day on which it is in session. This part of the scheme, utilizing the agents of the House and Senate, is in keeping with the Wright case.

Fourth, that the House to which the bill is returned shall enter the President's objections at large on its Journal and proceed to reconsider it. The Congress would then be able to override the President's veto in keeping with the constitutional provision.

Fifth, that if any bill is not returned by the President or his successor in office within 10 days, Sundays excepted, after it is presented as provided for in the bill, it shall be law in like manner as if he had signed it unless either the House or Senate prevent its return by their having adjourned sine die.

Mr. President, I believe that time is of the essence in this matter, since the 93d Congress may have several short recesses. If we delay, we may find more legislation passed by the Congress subjected to an illegal, absolute veto by the President. I think it is of the utmost importance that the Congress reassert its prerogative in this area by favorably considering this legislation.

I urge the Members of this body to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the United States Code be amended by adding the following chapter:

"Chapter 4.—APPROVAL OF ACTS

"Sec. 301. Presentation to President.
"Sec. 302. Approval by President.
"Sec. 303. Disapproval by President.
"Sec. 304. Reconsideration.
"Sec. 305. Enactment without signature; pocket veto.
"Sec. 306. Definition.

"§ 301. Presentation to President.

"Every bill that passes the Senate and the House of Representatives shall, before it becomes a law, be presented to the President of the United States or to a person in the Executive Office of the President previously designated and authorized in writing by the President to receive it.

"§302. Approval by President.

"(a) If the President approves a bill presented as provided in section 301 of this title, he shall sign it at the end thereof.

"(b) The President shall not make any notation on a bill, so presented, other than his signature and, if he desires, the word 'approved' and the date.

"(c) The President's authority to sign a bill, so presented shall not be affected by the adjournment of the Congress.

"(d) The authority to sign a bill, so presented, shall devolve to the President's successor in office.

"§ 303. Disapproval by President.

"If the President does not approve a bill presented as provided in section 301 of this title he shall return it with his objections to the House in which it originated. His objections may be on any basis without limitation.

"Return to an officer designated and authorized by the House of Representatives or the Senate respectively, to receive bills so returned prior to adjournment while the body is not actually in session shall constitute a return to that House. Such officer shall call the matter to the attention of that House, through its presiding officer, on the next succeeding day on which it is in session.

"§ 304. Reconsideration.

"The House to which a bill is returned shall enter the President's objections at large on their Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the Members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall be likewise reconsidered, and if approved by two-thirds of the Members present, it shall become a law. The votes of both Houses shall be determined by the yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively.

"§ 305. Enactment without signature; pocket veto.

"If any bill is not returned by the President or his successor in office within ten days, Sundays excepted, after it is presented as provided in section 301 of this title, it shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

"§ 306. Definition.

"As used in this chapter, 'adjournment' means an adjournment sine die by either the Senate or the House of Representatives."

By Mr. RIBICOFF:

S. 1046. A bill to amend the Internal Revenue Code of 1954 to provide for licensing of income tax return preparers. Referred to the Committee on Finance.

TAXPAYERS PROTECTION ACT OF 1973

Mr. RIBICOFF. Mr. President, tax time is here again. No one enjoys paying taxes, but now it is painful even trying to figure out how to fill out the forms. The Internal Revenue Service claims that their instructions are simple enough for elementary school students to understand, but a lot of confused Americans wonder where that elementary school is. Their only answer to the IRS forms is to pay for help in completing them.

In 1969 and 1970, for example, roughly 78 million individual Federal income tax returns—over half the total returns filed—carried the signature of a preparer other than the taxpayer. While many taxpayers went to lawyers and accountants, most used commercial tax preparation services. As a result the tax preparation industry is growing by leaps and bounds and now employs over 200,000 people.

For example, in 1971, H. & R. Block, the Nation's largest firm, prepared nearly 10 percent of all returns filed that year. In addition to the large chains like Block, department stores, finance companies, and banks have entered into the business on a major scale.

Serious problems have arisen because this rapid growth has not been accompanied by the necessary supervision and control. Today there are no standards for tax preparers. Anyone can rent an office, hang out a shingle and call himself a tax preparer. Unless he commits actual fraud there is nothing the Government can do to control him.

The entire tax preparation business should not be indicted. Given the complexity of our tax laws, such businesses serve a useful and important function. However, it is a service that can be and has been grossly misused on occasion. A check last year by the IRS of 3,200 preparers found less than half of them performing acceptably. In the weeks ahead millions of Americans will receive erroneous advice which can cost them dearly either by paying more taxes than necessary or by paying less and then being penalized by the IRS.

Last April reporters from the Washington Evening Star, armed with identical sets of facts, visited seven tax preparation firms in the Washington area. They found a wide range of opinion. Allowable charitable contributions went from $92 to $279. Deductible office expenses were as low as $109 and as high as $716. Refunds claimed ranged from $570 to $801—the IRS said $613 was the correct figure. The fees for this "expert" advice were spread between $15 and $39.50.

The chief victims of this incompetence or fraud are the low- and middle-income taxpayers—28 percent of the men and women who paid for assistance last year had incomes below $5,000. Wealthier individuals can afford to go to attorneys or accountants for expert and expensive advice, but most people cannot. But neither can the average workingman

afford a long dispute with the IRS that his tax preparer is responsible for.

It is the duty of the Congress—which enacted our complex tax code—to protect these consumers by eliminating incompetent and corrupt tax return preparers. Because the taxpayer usually does not know he has filed a faulty return until the IRS challenges him, any legislation we consider must be preventive as well as corrective in nature.

We need to develop a system that will prevent the small taxpayer from being injured and penalize preparers for fraud and incompetence. Instead of waiting for mistakes to happen, our efforts should be directed at allowing only qualified tax preparers to practice.

In order to provide this help, I introduced in the 92d Congress the Taxpayers Protection Act. No action was taken on this problem before the Congress adjourned and in the meantime the industry has grown larger and more preparers of questionable ability have entered the marketplace.

Today I am introducing the Taxpayers Protection Act of 1973. This bill would require every person who prepared 25 or more returns for a fee to obtain a license fom the IRS. While these men and women are not expected to have the same high skills as lawyers and accountants, licenses will only be given to those preparers who demonstrate a basic knowledge and understanding of the Internal Revenue Code and an ability to complete an individual's tax return fairly and competently. Because they have already met strict professional and ethical standards, attorneys, certified and licensed public accountants and enrolled agents would be exempted from the requirements of the act.

To assist the IRS in knowing who is preparing returns, every licensed preparer will have to sign and place his identification number on each client's return, file semiannual reports listing the names of his clients, retain a copy of each client's return for 3 years and give each client a copy of their own return.

Finally, a licensed preparer will be prohibited from advertising his special status. Commercial tax preparers will still be allowed to advertise their services as they do today but will be prohibited fom claiming any special imprimatur from the Federal Government. These restrictions will be similar to those already placed on attorneys and accountants.

The more responsible members of the industry believe that regulation is needed. Every new report of fraud or inefficiency erodes the public's confidence, severely damaging the larger and more visible firms who often perform acceptably. If we expect our citizens to have confidence in our tax system, we must act quickly to eliminate those preparers who misuse the code and abuse the taxpayer.

I ask unanimous consent that the text of the Taxpayers Protection Act 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. 1046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart D of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions relating to information and returns) is amended by renumbering section 6021 as 6022, and by inserting after section 6020 the following new section:

"SEC. 6021. UNITED STATES LICENSED TAX RETURN PREPARER.

(a) GENERALLY.—An individual (other than an attorney, certified public accountant, licensed public accountant, or enrolled agent as defined in subsection (f)) who prepares more than 25 returns (of the tax imposed by chapter 1) for others, in any calendar year, shall, prior to the expiration of the sixth month following the close of such calendar year, meet the standards set (pursuant to subsection (b)) by the Secretary or his delegate for designation as a "United States licensed tax return preparer" (Hereinafter referred to as a 'licensed preparer').

"(b) AUTHORITY TO LICENSE.—The Secretary or his delegate is authorized to license individuals who are engaged in the business of preparing returns (of the tax imposed by chapter 1) for others as 'licensed preparers'. Pursuant to this authority, the Secretary or his delegate may give regular and periodic examinations and set such other standards as he considers necessary to determine the competence and fitness of those who are to be designated as 'licensed preparers'. Designation as 'licensed preparer' shall be for a period of 5 years and may be renewed upon reexamination and compliance with such other standards as the Secretary or his delegate considers necessary to determine the competence and fitness of those who are to be designated as 'licensed preparers'.

"(c) FILING REQUIREMENTS.—Every 'licensed preparer' shall—

(1) sign and include his license number on every return prepared for a fee;

(2) file with the Secretary or his delegate on January 15 and July 15 an information return listing the names and identification numbers of each client for the preceding 6 calendar months;

(3) retain for 3 years from the date of preparation one copy of each return prepared;

(4) deliver to each client a completed copy of the client's return.

"(d) WITHDRAWAL OF LICENSED STATUS.—The Secretary or his delegate may, after due notice and opportunity for hearing, withdraw from any individual the status as 'licensed preparer', upon a showing that such individual is incompetent or unfit to be a 'licensed preparer', or who, with intent to defraud in any manner, willfully and knowingly deceives or misleads any individual in any matter arising out of his business as a 'licensed preparer'.

"(e) PROHIBITION ON ADVERTISING.—Any individual qualified as a "United States licensed tax preparer" may not advertise that status except as permitted by the Secretary or his delegate".

"(f) DEFINITIONS.—for purposes of this section—

"(1) ATTORNEY.—'Attorney' means any person who is a member in good standing of the Bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia.

"(2) CERTIFIED PUBLIC ACCOUNTANT.—'Certified public accountant' means any person who is duly qualified to practice as a certified public accountant in any State, possession, territory, Commonwealth, or in the District of Columbia.

"(3) LICENSED PUBLIC ACCOUNTANT.—'Licensed public accountant' means any person who is duly qualified and licensed to practice public accountancy in any State, possession, territory, Commonwealth, or the District of Columbia.

"(4) ENROLLED AGENT.—'Enrolled agent' means any person enrolled, pursuant to regulations of the Secretary or his delegate, as an agent to practice before the Internal Reveune Service."

(b) The table of sections of subpart D of part II, subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6021. United States licensed tax return preparer.

"Sec. 6022. Listing by Secretary of taxable object owned by nonresidents of internal revenue districts."

SEC. 2. Subchapter A of chapter 75 is amended by adding at the end of part I thereof a new section 7216 to read as follows:

"SEC. 7216. OFFENSES INVOLVING UNITED STATES LICENSED TAX RETURN PREPARER STATUS.

"(a) FAILURE TO OBTAIN STATUS AS UNITED STATES LICENSED TAX RETURN PREPARER'.—Any individual who is, pursuant to section 6021(a), required to obtain designation as a 'United States licensed tax return preparer' and who continues to engage in the business of preparing returns (of the tax imposed by chapter 1) for others, without obtaining status as a 'United States licensed tax return preparer' shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 6 months, or both."

"(b) FAILURE TO INCLUDE NAME AND LICENSE NUMBER.—Any individual who pursuant to section 6021(c), fails to include his name and license number on each return prepared shall be fined $25 for each offense.

SEC. 3. The amendments made by this Act shall take effect on the first day of the first calendar year beginning after the date of enactment.

By Mr. McINTYRE (for himself and Mr. WILLIAMS):

S. 1050. A bill to provide for the registration and regulation of oil and gas programs, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

OIL AND GAS INVESTMENT ACT OF 1973

Mr. McINTYRE. Mr. President, on behalf of Senator WILLIAMS and myself, I am reintroducing today a bill which we cosponsored in the last Congress to regulate oil and gas drilling funds or programs, commonly known as oil programs. Legislation in this area is needed, not only to fill a gap in our present scheme of investor protection, but also to improve the stature of oil programs in the eyes of the investing public. This should encourage greater participation in oil programs and increased exploration for oil and gas at a time when there is an urgent need for increases in our domestic reserves of oil and gas.

Oil programs are generally unincorporated associations which hold or invest in oil or gas interests or engage in exploration, drilling, or production of oil or gas. Oil program offerings have averaged about $1 billion a year during the years 1969–71, although the SEC estimates that only about 25 percent of this amount was actually sold.

Because the operations of oil and gas programs are in many ways similar to those of mutual funds, the Investment Company Act Amendments of 1970, as

passed by the Senate, would have eliminated the exemption for oil and gas programs now found in that act. However, in conference with the House, this provision was stricken on the understanding that the SEC and the industry would submit within 18 months legislation to regulate oil programs in a manner which takes account of their distinctive characteristics. This bill is the result of that undertaking.

The principal problems presented by oil programs stem from their structure and method of conducting business. Oil programs are characterized by externalized management and the separation of public beneficial ownership from the control of such programs. They are typically organized as limited partnerships. Under the laws of most States, limited partners are prevented from exercising control over the management of the business, lest they lose their limited liability.

Also, most general partners of oil programs have the authority, and frequently do, appoint another person who will actually perform all or a substantial portion of the management functions of the program. Typically, the other person is an affiliated person or alter-ego of the general partner. Unlike a corporation, oil programs have no officers or directors or other persons who will protect investor interests.

With their dominance and control over the programs thus secured, the managers and their affiliates are able to sell oil and gas interests and other property and services to oil programs, and engage in various other transactions in their interests conflicting with those of the programs and their investors. This manner of doing business and the abuses and potentials for abuse which it fosters are strikingly similar to those which led to the enactment of the Investment Company Act of 1940 and the 1970 amendments to that act.

Indeed, many investors in oil programs promoted by King Resources, to take one example, sustained tens of millions of dollars of losses which were attributable in large part to practices by the managers of these programs which would have been prevented by regulation of the type provided in this bill.

The bill defines "oil program" to include those companies which are directly engaged, more or less, in actual operations, as well as those oil programs which would clearly come within the definition of investment company. Since conventional operating oil corporations do not provide flow-through tax treatment to their investors, they are not within the definition of "oil program." Also, the bill except, among other things, certain arrangements used by small independent oil operators to finance their activities.

In view of the external management feature common to oil programs and mutual funds, this bill extends many of the provisions of the Investment Company Act concerning self-dealing transactions to oil programs. However, some degree of manager participation is present in all methods of oil and gas exploration. Therefore, the bill does not require, as does the Investment Company Act, that a manager of an oil program or affiliate get prior SEC approval for all transactions. Instead, the bill establishes fiduciary standards applicable to such dealings.

Another important provision of the Investment Company Act which is not included in this proposed legislation is its controls over management compensation, which were substantially strengthened by the 1970 amendments. While there are obvious and necessary differences between mutual funds and oil programs in the manner of compensating the management, there have been serious criticisms of some of the management compensation practices in the oil program industry. I therefore believe it would be appropriate, in the hearings on this legislation, to consider whether some controls on management compensation should be included. In that connection, I ask unanimous consent to have printed in the RECORD an article entitled "Drilling Funds, What Risk? What Reward?" from the June 1972 Dun's magazine.

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

DRILLING FUNDS: WHAT RISK? WHAT REWARD?

(By Arlene Hershman)

The season for it is starting now. The memory of April 15 remains strong, and executives are still in the mood to hear the siren song about roaring oil gushers and soaring tax write-offs. So an army of drilling fund salesmen will tell them about the benefits of depletion, intangibles and other tax benefits. When their song is ended, it is estimated that some $425 million will have been put into drilling funds this year by investors, most of them high-bracket executives, a 14% increase over last year.

But in doing so, these executives will be going into a high stakes game, where investors have a long history of rolling snake-eyes. One independent analyst, in fact, made a study of 200 drilling programs and found that in only 23 companies did the investor even get his money back, much less have something to show for it.

And top oil expert Bernard Feshbach, vice president of the San Francisco investment banking house of First California Co., thinks the odds can be even longer than that. "If you're twelve years old and don't get leukemia," says Feshbach sardonically, "you might live long enough to get your money back from some of those funds."

And though the Securities and Exchange Commission has been writing proposals for new fund legislation for the past eighteen months, a close look at the oil drilling programs shows that in all too many funds the deck is stacked against the investor: He puts up most of the capital, takes all of the risk—and gets a very small piece of the return, if there is any.

But why do normally sophisticated investors keep putting their money into drilling funds? After all, the funds' shortcomings have not gone exactly unheralded. The problems of John King, who was quite literally the king of the drilling-fund promoters, made headlines all over the world. Rick Clinton's Clinton Oil's earnings fell out of bed. And periodically, the SEC publicly warns against some fund practices. (Under existing law, the SEC can only force the funds to make full disclosure in their prospectuses; it is an axiom of the investment business, though, that few investors even bother to read prospectuses).

It is the write-off aspect of the oil business, of course, that makes the executive forget all caution when he buys a fund share, an investment that usually costs him $5,000 a unit. Assuming he is in the 50% tax bracket (the lowest bracket if the tax deduction is to have any meaning), the program should provide the executive a write-off of at least 90%. Ostensibly, the value of the oil found will more than cover those expenses, providing him with his share of the partnership revenues for at least six years and possibly as long as 25 years. Furthermore, the oil depletion allowances makes only 88 cents of every oil income dollar taxable.

One thing can keep this dream investment from coming true: Ironically, the very nature of the tax law, which provides the tax benefits, can lead to the investor virtually playing against that stacked deck.

To see the full impact look at a hypothetical case, where a $10 million program drills ten wells, hits oil in the one, and the returns are to be split 50–50. Seemingly, fair enough. But, typically, to get the benefits of the tax laws, the investors must put their money in intangible costs: the geologic surveys, land preparation and any expense for a dry hole. That is the risk part of oil drilling. So just one of those intangible items, the $9-million bill for those nine dry holes, also comes out of their share of the receipts.

But the operator puts up the capital costs. He is paying only for the tangibles—the pumps and other equipment needed to get the oil out of the ground *after* it is found.

This division of risk and reward is fairly common in the industry. In recent programs offered by Amarex and Adobe, for example, investors put up all the risk capital. Under the terms of the agreement, though, the most they could get is half the receipts.

Asks Harmon Spolan of the Philadelphia brokerage house of Butcher & Sherrerd: "What risk is the operator taking compared to the investors?"

Not only that, there is the fact that drilling funds are exempt from SEC regulations on management fees, costs for services and the like. As Lewis Mosburg Jr., an Oklahoma City attorney notes: "It is possible for the operator to profit handsomely on a program that was relatively disastrous for the investor."

One way is a classic known as the "G&A." Also called "off the top" these are the promoter's general and administrative costs. With a little astute pencil work on the part of the fund operator, the bill for G&A can leave the investor with as much as a quarter of his funds gone, and none of his dollars even within sight of the oil patch.

And it is perfectly legal. As the prospectus for one oil fund shows, the general partners in the program are taking: (A) a 15% management fee; (B) 10% for general and administrative costs; (C) 1% for out-of-pocket expenses and registration costs. According to the fund's own estimate, this leaves a bare 74 cents for buying income-earning properties. "My own research shows," says Los Angeles tax adviser Arthur Groesbeck, "that a higher percentage of fees and overhead costs go to oil program promoters and operators than in any other tax shelter."

Even expert Bernard Feshbach once got nipped by the overhead bite. In one program he sold to investors. Feshbach was assured by the promoter that partnership investors would be charged for only a fair share of the company's G&A. A year and a half later, he recalls, the company put out a registration statement showing that Feshbach's partnership had paid the promoter's entire G&A for the year.

SETTING THE G&A

Feshbach, who has written a four-page study that is the most penetrating examinations of drilling fund sins ever done, believes that overhead should be charged only as a percentage of funds raised. Say, something on the order of 2% or 3%. "If a program doesn't set out what percentage is going to G&A," he warns investors, "I wouldn't touch it."

What it all adds up to is the fact that for some drilling funds there can be more money made from drilling-fund management than from actually finding and producing oil and gas. Patrick Petroleum, for example, according to a recent prospectus, is "engaged in exploring for and producing oil and gas." For its 1971 fiscal year, ended April 30, Patrick earned some 86% of its net profits from "transactions with oil and gas programs."

The very setup of other programs, it should be noted, encourages conflict of interest and self-dealing. Most drilling programs are put together by a promoter, who also usually acts as the general partner (in prospectus terms, the manager) of the program. To find the land, drill for the oil, get it out of the ground, and so forth, he hires middlemen—land owner, geologist, drilling company, equipment-leasing company, well operator and so forth.

There is nothing really illegal about this, and some drilling funds, such as Intramerican, put a deliberate limit of 12½% on the profit an affiliate can make. Yet others merely state that the price for each service will be set at the prevailing market rates. But as Bernard Feshbach points out: "Prevailing market rates in the oil business is whatever the oilman can negotiate."

In fact, in so-called turnkey, or fixed-price, drilling operations, the opportunity for both the promoter and his drilling affiliate to make money are sometimes built in. Investors in turnkey programs supposedly are protected from unexpected cost overruns because an established price is set for each service. In some programs, however, the fixed price is always high enough so that the fund manager makes a profit. So does the affiliated operator, thus giving him a double, or "back-to-back," profit.

Even without back-to-back deals, the investor generally pays the cost of the oil property. And when it comes to determining that cost, he is completely dependent on the integrity and acumen of the program manager. But as expert Arthur Groesback laments: "There is no way you can tell or control what operators are doing."

All too true. If the manager is affiliated with the land owner, for example, he may limit its profit on a land sales to the partnership to 25%, as Intramerican does; or it may even sell the land at "cost." Most often, though, it will sell the land at "fair market value," even though establishing a fair market value for underdeveloped land is next to impossible. As Denver oil accountant William J. Harnden explains: "Even expert geologists can't put any fixed appraisal on underdeveloped land."

The profits on land, then, can run high. Under an agreement with the program manager, Universal Resources sold one-half interest in exploration rights to investors in the Trinity Drilling II program for approximately what it had paid for its whole interest. As the prospectus bluntly stated: "This arrangement assures Universal Resources a 100% profit on each one-half interest sold to the Program."

Not only that, Universal Resources had sold 24,000 acres to a previous Trinity Drilling program for an aggregate selling price of $1.5 million. About this transaction, the prospectus states: "The before-tax profit to Universal Resources was $1,100,438."

Even the major drilling programs launched by Continental Oil and Sun Oil have met sales resistance because participants were to pay for some leases that the companies originally "contributed" to the program. In the Conoco program, the oil company donated drilling rights to the program for three years. If the drilling on a particular lease was successful, the participants would share the revenues from the well and the lease would form part of Conoco's contribution. If the drilling turned up a duster, the investors would have to pay the company for the lease. And of the $75 million total offering, the prospectus estimates that some $15 million will go to reimburse Conoco for its costs on these leases.

Granted, part of that arrangement can be explained by the tax law. Under its provisions, land that produces oil must be capitalized; land that is barren, though, can be written off immediately as an intangible drilling cost. Continental, then, claims that its charge for dry-hole leases only insures that the investor will get a maximum write-off.

Another part of the arrangement Conoco has with the program's investors calls for it to get back any leases that have not been drilled by the end of three years. Conoco's estimate: It will get back $12.4 million worth of undrilled leases in 1974.

OPERATING COSTS

Some companies also enhance their revenues and profits by charging investors for operating costs on producing wells. This is in the form of a well charge. Among other things, it covers the cost of sending an inspector on regular trips to the well to make sure it is operating properly. For this sevice, investors in Patrick Petroleum's program, for one, pay a monthly charge of $50 to $150 per producing well above direct costs and expenses.

Patrick charges a fee even if another contractor checks the well. According to its most recent prospectus, if Patrick uses a subcontractor, it "will review the performance of the operator and the costs and expenses it charges, and will maintain accounting records for the partnership and receive and disburse monies on its behalf. For such services, the General Partner (Patrick) will charge its direct costs and expenses and an indirect monthly charge of up to $50 per month per well."

Some managers make a slight bow in the direction of sharing the investor's risk by taking their compensation "off the middle" in the shape of an overriding royalty. Under this formula, the promoter theoretically cannot make any money unless oil is found in producing quantities. The catch: in an overriding royalty, the promoter collects a share of the receipts but does not pay any of the expenses.

Indeed, with a large share of the investor's return going for expenses, like dry holes, management often ends up getting more income and receiving it sooner than the participant, in an overriding royalty arrangement. In Intramerica's 1969 fund, for example, as of June 30, 1971, the investors had received a total of $31,800 on a $1 million outlay, while management—not counting its management fee—had collected $37,000 on no direct investment.

Similarly, Petro-Search Exploration recovered $130,000 from its 1969 and 1970 programs before the end of 1970, yet according to a study by Resource Programs, the oil fund industry's most comprehensive statistical service, investors had yet to see a penny.

If the investor in drilling funds does have a chance of winning, it is when the promoter takes his profit "off the bottom." He profits only after the investment has been paid off. Even here, though, the promoter may have taken little or no risk as far as any investment is concerned, and yet cut himself in for 25% of the profits.

As if all this were not enough, the oil-fund investor has still another problem to worry about: the amount of money he will eventually be required to invest in a program. In some programs, the investor can lose out substantially on his share of returns if he cannot produce, when asked, more money besides his original partnership interest. Additional investment—or assessments—are called for in many programs on the assumption that an operator could dig nine dry wells and then hit a hole field on the tenth and not have money left to develop the property. The assessment, therefore, sounds like a safe investment since it is going to exploit what looks like a proven producing property area.

But what if the investor cannot come up with the money? In many programs, the hardship is out of all proportion to the risk he has carried. The Vanderbilt Drilling Program, like many others, establishes a mandatory assessment of up to 10% of the participant's original investment. If the investor cannot pay within thirty days of the request, the prospectus warns: "The entire interest of such Participant will terminate and be forfeited."

Optional assessments often require larger amounts than mandatory ones—they may even be unlimited—and the penalty for not putting up more money may be almost as severe. The Intramerican program for 1971 gives the operators the power to ask for as much as half of each partner's original investment for lucrative development activity. If the partner cannot come up with the money, he "will be excluded from the development activity."

Even on optional assessments, Harmon Spolan maintains, the investor is taking on a disproportionate share of the risk. Spolan dislikes recommending funds that call for unlimited, though optional, additional assessments. Often, he says, they have a way of never ending. "Year after year," he notes, "the promoters come back for more money and the investor never knows when his liability ends."

GETTING LOCKED IN

Oil participations, moreover, most often take the forms of a limited partnership. So the investor also has the inherent risk of being locked into an illiquid investment unless the general partner is willing to buy back the interest. Many funds will do so. The formula the company uses to repay him, though, reduces the value of his interest to, at most, 70% of the present value of the reserves. In cash terms, this could mean 42% of the value of a gas well with a 25-year life off the coast of Texas or 60% of the appraised value of an oil well with a predicted seven-year life in the Rocky Mountains.

Other investors who want to get out may be offered stock in exchange for their holdings. How an investor makes out in a stock swap will depend on how the stock performs, since often the exchange will not recoup his investment. If he has to wait a year before taking a capital gain, he may find the value at the start has dropped precipitously. Investors in Prudential's 1964 program, for example, got stock selling at 14½ in 1969. It was recently quoted at 4. "In eight out of ten cases," says Bernard Feshbach, "the stock swap is just a method to dazzle everybody. Investors haven't any idea of whether or not it was a successful program."

Sometimes the stock swap will be arranged with a new company which adds another risk to the investor since the new company has no earnings at all upon which to put a price. Even if the stock swap is offered for another established company, the question remains: "Would you buy the stock?"

If a program manager has a tradition of swapping stock for partnership interests, many an investor has bought into a fund as a "cheap" way of buying a fund manager's stock. His savings come in the form of his tax write-offs. But the hazard of this gambit, says Lewis Mosburg Jr., is that the stock price may be a lot lower when the investor is ready to sell than when he received the exchange.

Take the case of Clinton Oil. The stock was selling at 13 in 1969 when the company raised $100 million for the biggest single drilling program the industry has seen. Even before a year was out, the participants in the drilling fund were offered an exchange: stock in a newly formed company, Real Petroleum. This was merged into Clin-

ton last year in still another exchange. Results: One investor who put $10,000 in a 1969 drilling program now owns 1608 shares of Clinton stock instead; a lot of shares, but with a flaw; they were recently quoted over the counter at a price of 1⅞ a share.

The SEC proposals go to Congress this month, but how much protection they will afford is open to question. Analysts who have seen the proposals say they alter only little the inequitable balance of risk and reward between the investor and the promoter. Says one oil man: "As far as I can see, they only call a halt to outrageous practices that died two years ago anyway."

Whether or not this criticism is mentioned, the SEC draft proposal provides that at least the industry should decide on a fair management fee. If the guidelines set last fall by the North American Securities Administrators is a clue to what the industry will suggest, a 12.5% management fee is not considered over-reaching even if the promoter is also taking a share of the profits. "This industry can't continue to grow," David Grace sums up, "unless the promoters stop dealing quite so harshly with investors."

So there is at least a measure of progress being made in regulating the funds. And there are a number of funds, it must be said, that are quite capably run and genuinely trying to earn a return for the investor. But unless the executive is very well informed about the complexities of life in the oil patch, he would do well to follow the slogan of the Romans, *caveat emptor*.

Mr. McINTYRE. Mr. President, in addition, hearings may show the need for strengthening of the bill in other areas to provide proper protection to the investor.

In addition to protecting investors, regulation of oil programs would serve another purpose. If the experience of mutual funds under the Investment Company Act is a guide, enactment of the bill would confer a substantive economic benefit upon the oil and gas industry in terms of increased public confidence and investment dollars. At the same time that our Nation's demands for energy are increasing, larger amounts of capital are required to find oil and gas to help meet that demand.

From an economic point of view, we as a nation cannot afford to have investment funds artificially diverted from the oil and gas drilling industry because of investor sentiments—right or wrong—that in evaluating an investment in a drilling program they must add the risk of being unfairly treated to the risk inherent in drilling for oil and gas. Thus, the bill could bring needed capital to the oil program industry and benefit the economy as a whole, as well as protect investors.

Mr. President, I ask unanimous consent that the text 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. 1050

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 "Oil and Gas Investment Act of 1973".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that oil programs are affected with a national public interest, in that, among other things—

(1) the dollar value of program participations issued by oil programs represents a significant part of the value of all securities offered, distributed, purchased, paid for, exchanged, transferred, redeemed, and repurchased by use of the mails and means and instrumentalities of interstate commerce;

(2) the principal activities of such oil programs—investing, reinvesting, and trading in oil and gas interests and exploring for and producing oil and gas—are conducted by the use of the mails and means and instrumentalities of interstate commerce;

(3) oil programs are the media for investment in the national economy of a significant part of the national savings and may have a significant effect upon the flow of such savings into the capital markets; and

(4) the activities of oil programs, extending over many States, their use of the instrumentalities of interstate commerce and the wide geographic distribution of their investors, make difficult, if not impossible, effective State regulation of such programs in the interest of investors.

(b) The Congress declares that the national public interest and the interest of investors are adversely affected—

(1) when investors purchase, pay for, exchange, sell or surrender program participations issued by oil programs without adequate, accurate, and explicit information, fairly presented, concerning the character of such participations and the circumstances, policies and financial responsibility of such programs and their management;

(2) when oil programs are organized, operated, managed, or oil and gas interests are selected, in the interests of the managers of such programs, and in the interests of underwriters, brokers, or dealers, rather than in the interest of the holders of program participations of such programs;

(3) when oil program participations are sold to investors without regard to the suitability of the investment for such investors;

(4) when oil programs are managed by irresponsible persons and when the control of oil programs is unduly concentrated through pyramiding or inequitable methods of control;

(5) when oil programs, in keeping their accounts, in computing repurchase prices of their program participations, in allocating costs and revenues, and in determining management compensation, employ unsound, confusing or misleading practices, or are not subjected to adequate scrutiny;

(6) when oil programs become inactive, or change the character of their business, or when the control or management thereof is transferred, without the consent of the holders of program participations; and

(7) when oil programs or their managers operate without adequate assets or reserves.

While recognizing that the national public interest involved in the exploration for and production of oil and gas has led to enactment of certain Federal tax incentives which oil programs make available to their investors, the Congress declares that the policy and purposes of this Act are to mitigate and, so far as is feasible, to eliminate the conditions enumerated in this section which adversely affect the national public interest and the interest of investors.

GENERAL DEFINITIONS

SEC. 3. (a) As used in this Act—

(1) The term "affiliated person" of another person means (A) any person directly or indirectly owning, controlling, or holding with power to vote, 10 per centum or more of the outstanding voting securities of such other person; (B) any person 10 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (D) any officer, director, or employee of such person.

(2) The term "area of interest" means a geographically described region in which an oil program or other person intends to conduct its oil and gas activities. The area of interest of an oil program shall not include less than all of any known producing geologic structure, or oil or gas field which is contained in the description of such area of interest, except that the foregoing shall not prohibit an area of interest from excluding any lands adjacent thereto which are within an inland body of water or the coastal waters of the United States or any State.

(3) The term "assessment" means any additional amounts of capital which an investor may be called upon to furnish beyond the subscription price.

(4) The term "assignment" includes any direct or indirect transfer or hypothecation of a contract or chose in action by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but does not include an assignment of partnership interests incidental to the death or withdrawal of a minority of the members of the partnership having only a minority interest in the partnership business or the admission to the partnership of one or more members who, after such admission, shall be only a minority of the members and shall have only a minority interest in the business.

(5) The term "bank" means (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this Act, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

(6) The term "broker", as used in section 4(c)(4), means any person engaged in the business of effecting transactions in oil and gas interests for the account of others. As used elsewhere in this Act, "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(7) The term "Commission" means the Securities and Exchange Commission.

(8) The term "company" means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not; any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his capacity as such.

(9) The term "control" means the power to exercise a controlling influence over the management or policies of a company, subject to the following limitations:

(A) Any person who owns beneficially either directly or through one or more controlled companies, more than 25 per centum of the voting securities of a company shall be presumed to control such company. Any person, other than an officer, who does not so own more than 25 per centum of the voting securities of any company shall be presumed not to control such company.

(B) A natural person shall be presumed not to be a controlled person within the meaning of this Act.

(C) Any manager of an oil program shall be presumed to control such program.

(D) An officer of a company shall be presumed to control such company.

Any such presumption may be rebutted by evidence, but except as hereinafter provided, shall continue until a determination to the

contrary is made by the Commission by order either on its own motion or on application by an interested person. If an application filed hereunder is not granted or denied by the Commission within sixty days after filing thereof, the determination sought by the application shall be deemed to have been temporarily granted pending final determination of the Commission thereon. The Commission, upon its own motion or upon application, may by order revoke or modify any order issued under this paragraph whenever it shall find that the determination embraced in such original order is no longer consistent with the facts.

(10) The term "convicted" includes a verdict, judgment, or plea of guilty, or a finding of guilt on a plea of nolo contendere, if such verdict, judgment, plea, or finding has not been reversed, set aside or withdrawn, whether or not sentence has been imposed.

(11) The term "cost", when used with respect to property in section 19(a), means the sum of the price paid by the seller for such property, attorneys' fees, title insurance or examination costs, brokers' commissions, filing fees, recording costs, transfer taxes, if any, and like charges connected with the acquisition of such property; bonuses, rentals and ad valorem taxes paid by the seller with respect to such property to the date of its transfer to the buyer; all costs and expenses, if any, reasonably and properly allocable to the property paid by the seller prior to the date of the transfer of such property to the buyer, except costs of drilling wells which are not commercial producers; interest on funds used to acquire or maintain such property; and such portion of the seller's direct and indirect overhead and administrative expense for exploration, geological, land, engineering, drafting, accounting, legal and other services allocated to the property in accordance with generally accepted accounting practices. When used with respect to services in section 19(g), "cost" means the expense incurred by the seller in providing such services. As used elsewhere in this Act, "cost" means the price paid by the seller in an arm's-length transaction.

(12) The term "dealer" means any person regularly engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, insurance company, or investment company, or any person insofar as he is engaged in investing, reinvesting or trading in securities, or in owning or holding securities, for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business.

(13) The term "director" means any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated, including any natural person who is a member of a board of trustees of a company created as a common law trust.

(14) The term "equipment" includes machinery, tanks, tubing, pipe, pumps, and scientific instruments used in connection with the exploration for or drilling or production of oil or gas.

(15) The term "force majeure" means an act of God, strike, lockout, act of the public enemy, war, blockade, public riot, insurrection, lightning, fire, storm, hurricane, flood, explosion, blowout, governmental restraint, or any other cause not within the control of the manager.

(16) The term "interstate commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof.

(17) The term "issuer" means every person who (A) issues or proposes to issue any security, or has outstanding any security which it has issued, and (B) permits or holds itself out as permitting its beneficial owners to take into account, in computing their individual Federal income tax, their shares of such person's income, deduction, credit, depreciation, depletion, intangible drilling and development costs or similar items.

(18) The term "lend" includes a purchase coupled with an agreement by the vendor to repurchase; and "borrow" includes a sale coupled with a similar agreement.

(19) The term "manager" of an oil program means (A) any person who regularly provides services to an oil program or selects a person who regularly performs services for such oil program, and (B) any other person who pursuant to contract with a person described in clause (A) regularly performs substantially all of the services undertaken by a person described in clause (A). The Commission may, by rule, regulation, or order, make such exceptions to the foregoing definition as it deems necessary or appropriate having regard to the purposes of this Act.

(20) The term "means or instrumentality of interstate commerce" includes any facility of a national securities exchange.

(21) The term "officer" means a president, vice president, treasurer, secretary, controller, and any other person who performs for an organization, whether incorporated or unincorporated, functions corresponding to those of a policymaking nature performed by the foregoing officers.

(22) The term "oil and gas interest" means any oil or gas royalty or lease, or fractional interest therein, or certificate of interest or participation or investment contract relative to such royalties, leases or fractional interests, or any other interest or right which permits the exploration of, drilling for, or production of oil and gas or other related hydrocarbons or the receipt of such production or the proceeds thereof.

(23) The term "operating entity" means any oil program all of the outstanding program participations of which are directly owned by a registered oil program and through which such registered oil program conducts all or a significant part of its business.

(24) The term "participation" means a security issued by a person which, but for the provisions of section 4 (b) or (c) would be a program participation.

(25) The term "person" means a natural person or a company.

(26) The term "principal underwriter" of or for any oil program, or of any security issued by such program, means any underwriter who as principal purchases from such program, or pursuant to contract has the right (whether absolute or conditional) from time to time to purchase from such program, any security for distribution, or who as agent for such program sells or has the right to sell any such security to a dealer or to the public or both, but does not include a dealer who purchases from such program through a principal underwriter acting as agent for such company.

(27) The term "production in paying quantities" means an oil and gas interest which has been brought into production in such quantity as to enable the recovery of costs, plus a profit.

(28) The term "production purchase program" means an oil program which proposes to invest substantially all of its initial capital in oil or gas interests in producing properties.

(29) The term "program participation" includes a security issued by an oil program which represents or corresponds to (A) a limited or general partnership interest in an oil program organized as a limited partnership, (B) a share or participation in an oil program organized as a joint venture or partnership, or (c) stock in an oil program organized as a corporation; except that such term does not include any interest possessed by a manager of an oil program under a management agreement by reason of being a manager, or short-term paper of such a program.

(30) The term "promoter" of an oil program or a proposed oil program means a person who, acting alone or in concert with others, is initiating or directing, or has within one year initiated or directed, the organization of such program.

(31) The term "property" means any tangible or intangible property, except equipment and related supplies and writings which evidence ownership of program participations.

(32) The term "prospect" of an oil program means an area in which such program owns one or more oil or gas interests, which is geographically defined on the basis of geological data by the manager of such program and which is reasonably anticipated by such manager to contain at least one reservoir of oil or gas. Such area shall be enlarged or contracted on the basis of geological data, to define the productive limits of such reservoir.

(33) The term "prospectus", as used in sections 14(b), 21(a), 33(b), and 34, means a written prospectus intended to meet the requirements of section 10(a) of the Securities Act of 1933. As used elsewhere in this Act, "prospectus" means a prospectus as defined in the Securities Act of 1933.

(34) The term "repurchaseable program participation" means any program participation issued by an oil program the terms of which provide for the repurchase, redemption, or other payment of such participation by any person, in cash or other consideration, in whole or in part, upon presentment by the holder thereof or otherwise.

(35) The term "reorganization" means (A) a reorganization under the supervision of a court of competent jurisdiction, (B) a merger or consolidation, (C) a sale of 75 per centum or more in value of the assets of a company, except a sale in the ordinary course of business solely of future production pursuant to a production purchase contract, (D) a restatement of the capital of a company, or an exchange of securities issued by a company for any of its own outstanding securities, (E) a voluntary dissolution or liquidation of a company, (F) a recapitalization or other procedure or transaction which has for its purpose the alteration, modification, or elimination of any of the rights, preferences, or privileges of any class of securities issued by a company as provided in its charter or other instrument creating or defining such rights, preferences, and privileges, (G) any exchange of securities by an oil program or a company which is not an oil program for securities issued by a registered oil program, or (H) an exchange of securities issued by a company for outstanding securities issued by another company or companies, preliminary to and for the purpose of effecting or consummating any of the foregoing.

(36) The term "reservoir" means an accumulation of oil or gas in a separate geological structure.

(37) The terms "sale," "sell," "offer to sell," or "offer for sale," include every contract of sale or disposition of, attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other things, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value.

(38) The term "sales load" means the difference between the price of a security to the public and that portion of the proceeds from its sale which is received by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.

(39) The term "security" means any note,

stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

(40) The term "short-term paper" means any note, draft, bill of exchange, or banker's acceptance payable on demand or having a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof payable on demand, or having a maturity likewise limited; and such other classes of securities of a commercial rather than an investment character, as the Commission may designate by rules and regulations.

(41) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, or any territory of the United States.

(42) The term "supplies" include tools and materials required in connection with the operation of equipment.

(43) The term "underwriter" means any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributor's or sellers' commission. As used in this paragraph the term "issuer" includes, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer. When the distribution of the securities in respect of which any person is an underwriter is completed such person shall cease to be an underwriter in respect of such securities or the issuer thereof.

(44) The term "unit, unit operating, communitization, or pooling agreement" includes an agreement whereby small tracts sufficient for the granting of a well permit under applicable spacing rules are combined and jointly operated and an agreement providing for the combination of separately owned rights in a common producing reservoir and the joint operation thereof.

(45) The term "voting security" means any security presently entitling the owner or holder thereof to vote for the election of directors of a company. A specified percentage of the outstanding voting securities of a company means such amount of its outstanding voting securities as entitles the holder or holders thereof to cast said specified percentage of the aggregate votes which the holders of all the outstanding voting securities are entitled to cast.

(b) The provisions of this Act do not apply to the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned by any one of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provisions make specific reference thereto.

DEFINITION OF OIL PROGRAM

SEC. 4. (a) As used in this Act, the term "oil program" means any issuer which—

(1) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of owning, holding, trading, investing or reinvesting in oil or gas interests, or in the business of exploring or drilling for or producing oil or gas or receiving such production or the proceeds thereof; or

(2) is engaged or proposes to engage in the business of owning, holding, trading, investing or reinvesting in oil or gas interests, or in the business of exploring or drilling for, or producing oil or gas, or receiving such production or the proceeds thereof, and owns or proposes to acquire (A) oil or gas interests, or (B) other assets used in connection with exploring, drilling or producing oil and gas, or receiving such production or the proceeds thereof having a value which exceeds 40 per centum of the value of such issuer's total assets on an unconsolidated basis.

(b) Notwithstanding paragraph (2) of subsection (a), the following person is not an oil program: Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of owning, holding, trading, or investing or reinvesting in oil and gas interests or that of exploring or drilling for or producing oil and gas or receiving such production or the proceeds thereof. The filing of an application under this subsection in good faith by an issuer other than a registered oil program shall exempt the applicant for a period of ninety days from all provisions of this Act applicable to oil programs as such. For cause shown, the Commission by order may extend such period of exemption for an additional period or periods. Whenever the Commission upon its own motion or upon application, find that the circumstances which gave rise to the issuance of an order granting an application under this subsection no longer exist, the Commission shall by order revoke such order.

(c) Notwithstanding subsection (a), none of the following persons is an oil program within the meaning of this Act:

(1) Any issuer all the participations of which are directly or indirectly owned by a company which is not an oil program within the meaning of subsection (a) or is excepted from such definition by subsection (b).

(2) Any issuer whose outstanding participations are beneficially owned by not more than thirty-five persons (exclusive of persons described in clauses (A), (B), (C) in paragraph (4) of this subsection) and which is not making and does not presently propose to make a public offering of its participations. For the purposes of this paragraph, beneficial ownership of participations of such issuer by a company shall be deemed to be beneficial ownership by one person; except that, if such company (other than a corporation) owns 10 per centum or more of the outstanding participations of the issuer, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities, unless the value of all participations of oil programs owned by such company does not exceed 5 per centum of the value of its total assets.

(3) Any person primarily engaged in the business of underwriting and distributing oil and gas interests issued by other persons, selling such interests to customers, and acting as broker with respect to such interests, or any one or more of such activities, whose gross income normally is derived principally from such business and related activities.

(4) Any issuer, all of whose outstanding participations are owned by persons each of which (A) is primarily engaged in the business of drilling for, producing or refining oil or gas or investing in or holding any interests or rights which permit the exploration for or production of oil or gas or the receipt of such production or the proceeds thereof, (B) is a registered oil program, or (C) has been found by the Commission upon written application not to require the protection provided by this Act (which finding shall be effective until rescinded).

(5) Any issuer which is an association created by unit, unit operating, communitization, or pooling agreement, formed to explore for or produce oil or gas in a defined area substantially all or whose members owned an interest in such area prior to the formation of such association, provided that the purpose of such formation is not to evade the provisions of this Act.

(6) Except as provided by rules and regulations as the Commission may prescribe in the public interest and for the protection of investors, any issuer of direct fractional undivided interests in oil or gas rights in specified properties who (A) has complied with the requirements for registration under the Securities Act of 1933, or (B) is entitled to rely upon regulation B under the Securities Act of 1933 and has complied with all of the requirements thereof.

CLASSIFICATION OF OIL PROGRAM

SEC. 5. (a) For purposes of this Act, oil programs are divided into repurchase and nonrepurchase programs, defined as follows:

(1) "Repurchase program" means an oil program which is offering for sale or has outstanding any program participation which is repurchaseable by any person in accordance with section 10(b).

(2) "Nonrepurchase program" means any oil program other than a repurchase program.

(b) Oil programs are further divided into diversified and nondiversified programs, defined as follows:

(1) "Diversified program" means an oil program which (A) holds or invests in or proposes to hold or invest in oil or gas interests, explores or drills for or proposes to explore or drill for or produce oil and gas, receive such production or proceeds thereof on at least five separate prospects, (B) spends or proposes to spend no more than 50 per centum of its net capital on any one prospect, and (C) has a net worth of at least $250,000 on the date it commences operations.

(2) "Nondiversified program" means any oil program other than a diversified program.

EXEMPTIONS

SEC. 6. (a) The Commission, by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security or oil or gas interest or transaction or any class or classes of persons, securities, oil or gas interests, or transactions, from any provision of this Act or any rule or regulation thereunder, if and to the extent that it determines that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this Act.

(b) If, in connection with any rule, regulation or order under this section exempting any oil program from any provision of section 7, the Commission deems it necessary or appropriate in the public interest or for the protection of investors that certain specified provisions of this Act pertaining to registered oil programs shall be applicable in respect to such oil program, the provisions so specified shall apply to such oil program as though such oil program were a registered oil program.

TRANSACTIONS OF UNREGISTERED OIL PROGRAMS AND OF OTHER ISSUERS

SEC. 7. (a) No oil program organized or otherwise created under the laws of the United States or of a State, unless registered under section 8, shall directly or indirectly—

(1) offer for sale, sell or deliver after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security, whether the issuer of such security is such

oil program or another person; or offer for sale, sell, or deliver after sale any such security or interest, having reason to elieve that such security or interest will be made the subject of a public offering by use of the mails or any means or instrumentalities of interstate commerce;

(2) purchase, redeem, retire, or otherwise acquire or attempt to acquire, by use of the mails or any means or instrumentality of interstate commerce, any oil or gas interest, or any security or any interest in a security, whether the issuer of such security is such oil program or another person;

(3) control any oil program which does any of the acts enumerated in paragraphs (1) and (2);

(4) engage in any business in interstate commerce; or

(5) control any company which is engaged in any business in interstate commerce.

The provisions of this subsection shall not apply to transactions of an oil program organized before the enactment of this Act which are merely incidental to its dissolution.

(b) No manager of or underwriter for any oil program, unless such program is registered under section 8, or exempt under section 6, shall directly or indirectly—

(1) offer, sell, or deliver after sale, by use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security of which such oil program is the issuer; or offer for sale, sell, or deliver after sale any such security or interest, having reason to believe that such security or interest will be made the subject of a public offering by use of the mails of any means of instrumentality of interstate commerce;

(2) purchase, redeem, or otherwise acquire or attempt to acquire by use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security of which such oil program is the issuer; or

(3) sell or purchase for the account of such oil program, by use of the mails or any means or instrumentality of interstate commerce, any oil or gas interest, or any security or interest in a security, by whomever issued.

The provisions of this subsection shall not apply to transactions which are merely incidental to the dissolution of an oil program which was organized before the enactment of this Act.

(c) No promoter of a proposed oil program, and no underwriter for such a promoter, shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell or deliver after sale, in connection with a public offering, any preorganization certificate or subscription for such an oil program.

(d) No oil program, unless organized or otherwise created under the laws of the United States or of a State, and no manager or underwriter for such a company not so organized or created shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell, or deliver after sale, in connection with a public offering, any security of which such oil program is the issuer. Notwithstanding the provisions of this subsection and of section 8(a), the Commission is authorized upon application by an oil program organized or otherwise created under the laws of a foreign country, to issue a conditional or unconditional order permitting such oil program to register under this Act and to make a public offering of its securities by use of the mails or any means or instrumentalities of interstate commerce, if the Commission finds that, by reason of special circumstances or arrangements, it is both legally and practicably feasible effectively to enforce the provisions of this Act against such oil program and that the issuance of such order is otherwise consistent with the public interest and the protection of investors.

(e) It shall be unlawful for any issuer which is not defined as an oil program in section 4(a) or is excluded from such definition by section 4(b), but which engages or proposes to engage directly or indirectly in the business of owning, holding, trading, investing, or reinvesting in oil or gas interests, or exploring, drilling for or producing oil and gas or receiving such production or the proceeds thereof, and spends or proposes to spend more than 500,000 during any twelve-month period in such business.

(1) to make a public offering of any security of which it is the issuer, or

(2) if such issuer has more than thirty-five beneficial owners of its securities, to engage in any business in interstate commerce,

unless such issuer conducts all of and only such business through a separate legal entity which is registered and otherwise regulated as an oil program under this Act. For the purposes of clause (2), beneficial ownership shall be determined in the same manner as provided in section 4(c)(2).

REGISTRATION OF OIL PROGRAMS

SEC. 8. (a) Any oil program organized or otherwise created under the laws of the United States or of a State may register for the purposes of this Act by filing with the Commission a notification of registration in such form as the Commission shall by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. An oil program shall be deemed to be registered upon receipt by the Commission of such notification of registration.

(b) Each registered oil program shall file with the Commission, within such reasonable time after registration as the Commission shall fix by rules and regulations, an original and such copies of a registration statement, in such form and containing the information and documents as the Commission shall by rules and regulations prescribe as necessary or appropriate in the public interest for the protection of investors, including:

(1) a recital of the policy of the registrant in respect to each of the following types of activities (such recital consisting in each case of a statement whether the registrant reserves freedom of action to engage in activities of such type, and if such freedom of action is reserved, a statement briefly indicating, insofar as is practicable, the extent to which the registrant intends to engage therein): (A) the classifications as defined in section 5, within which the registrant proposes to operate, (B) borrowing money, (C) making loans to other persons, (D) making assessments, (E) purchase or sale of securities of other issuers (other than securities which are oil or gas interests), and (F) purchase or sale of real estate (other than oil and gas interests) and commodities or either of them;

(2) a recital of all policies of the registrant, not enumerated in paragraph (1), which are changeable only if authorized by vote of the holders of program participations or which the registrant deems matters of fundamental policy;

(3) a description of the area of interest (A) of the registrant, (B) of other oil programs, registered or not registered, controlled by the manager of the registrant, and (C) reserved by the manager or controlling person of the manager for itself; and

(4) a description of any class or classes of program participations which have been issued by the registrant and any class or classes of such participations which the registrant proposes to issue.

(c) The Commission may make provision, by permissive rules and regulations or order, for the filing of the following, or so much of the following as the Commission may designate, in lieu of the information and documents required pursuant to subsection (b):

(1) copies of the most recent registration statement filed by the registrant under the Securities Act of 1933 and currently effective under such Act, or if the registrant has not filed such a statement, copies of a registration filed by the registrant under the Securities Act of 1934 and currently effective under such Act; and

(2) a report containing reasonably current information regarding the matters included in copies filed pursuant to paragraphs (1) and (2) of subsection (b), and such further information regarding matters not included in such copies as the Commission is authorized to require under subsection (b).

(d) If it appears to the Commission that an oil program has failed to filed the registration statement required by this section or a report required pursuant to section 27 (a) or (b), or has filed such a registration statement or report but omitted therefrom material facts required to be stated therein, or has filed such a registration statement or report in violation of section 26(b), the Commission may notify such oil program by registered or certified mail of the failure to file such registration statement or report or of the respects in which such registration statement or report appears to be materially incomplete or misleading, as the case may be, and may fix a date (in no event earlier than thirty days after the mailing of such notice) prior to which such oil program may file such registration statement or report or correct the same. If such registration statement or report is not filed or corrected within the time so fixed by the Commission or any extension thereof, the Commission, after appropriate notice and opportunity for hearing, and upon such conditions and with such exemptions as it deems appropriate for the protection of investors, may by order suspend the registration of such oil program until such registration statement or report is filed or corrected, or may by order revoke such registration if the evidence establishes—

(1) that such oil program has failed to file a registration statement required by this section or report required pursuant to section 27(a) or (b), or has filed such a registration statement or report but omitted therefrom material facts required to be stated therein, or has filed such a registration statement or report in violation of section 26(b); and

(2) that such suspension or revocation is in the public interest.

(e) Whenever the Commission, on its own motion or upon application, finds that a registered oil program has ceased to be an oil program, it shall so declare by order and upon the taking effect of such order the registration of such oil program shall cease to be in effect. An order under this subsection may be made upon appropriate conditions, including registration under the Investment Company Act of 1940, if necessary for the protection of investors and such program, after deregistration under this Act, would be an investment company as defined in that Act. The Commission's denial of any application under this subsection shall be by order.

(f) For the purpose of preventing duplicate filings, the Commission by rules and regulations or order may conditionally or unconditionally exempt any operating entity of a registered oil program from any of the provisions of this section or any rules or regulations thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors.

INELIGIBILITY OF CERTAIN PERSONS

SEC. 9. (a) It shall be unlawful for any of the following persons to serve or act in the

capacity of employee, officer, director, manager, or principal underwriter of any registered oil program, or affiliated person of such manager or principal underwriter:

(1) any person for whom it is unlawful to serve in the capacities enumerated and for the reasons specified in section 9(a)(1) of the Investment Company Act of 1940; or

(2) any person who within ten years has been convicted of any felony or misdemeanor arising out of such person's conduct as an underwriter, broker, dealer, or as manager or affiliated person or salesman of any oil program or as affiliated person of any such manager;

(b) The Commission may, after notice and opportunity for hearing, by order, prohibit conditionally or unconditionally either permanently or for such period of time as in its discretion it seems appropriate in the public interest, any person from serving or acting as an employee, officer, director, manager or principal underwriter of a registered oil program or as an affiliated person of such manager or principal underwriter, if such person—

(1) has willfully made or caused to be made in any registration statement, application or report filed with the Commission under this Act any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any registration statement, application, or report any material fact which was required to be stated therein;

(2) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or of this Act, or of any rule or regulation under any of these statutes; or

(3) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any of the statutes or rules or regulations enumerated in paragraph (2).

(c) Any person who is ineligible, by reason of subsection (a), to serve or act in the capacities described in that subsection, may file with the Commission an application for an exemption from the provisions of that subsection. The Commission shall by order grant such application, either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of subsection (a), as applied to such person, are duly or disproportionately severe or that the conduct of such persons has been such as not to make it against the public interest or protection of investors to grant such application.

OFFERS OF EXCHANGE; REPURCHASES; ASSESSMENTS

SEC. 10. (a) It shall be unlawful for any registered oil program or any manager or principal underwriter for such oil program, or any affiliated person of any such program, manager or principal underwriter, to make or cause to be made any offer to the holder of a program participation of such program to exchange such program participation for a security of another company or for any other consideration, unless—

(1) such offer is made after the expiration of two years after such program commenced operations;

(2) such offer is made to all holders of program participations of such program;

(3) such offer, if made to the manager or principal underwriter, or any affiliated person of such manager or principal underwriter, is on a basis not more advantageous to such manager, principal underwriter or affiliated person than to holders of program participations;

(4) the value of the security or other consideration offered is at least equivalent to the value of the program participation; and

(5) the terms of such offer, the basis of valuation, and such other information as the Commission by rule or regulation may specify, are filed with the Commission at least 30 days prior to the consummation of such exchange and transmitted to holders of such program participations, except that such information need not be filed with the Commission or transmitted to such holders (A) if such offer is made by means of a registration statement meeting the requirements of the Securities Act of 1933, or (B) if the security offered is exempted by section 3(a)(10) of the Securities Act of 1933 and an offering circular containing substantially the same information required by this paragraph is filed with the Commission and delivered to each such holder.

(b) It shall be unlawful for a registered oil program, or any manager or principal underwriter of such program, or any affiliated person of such manager or principal underwriter, to sell any program participation issued by such program which is or purports to be repurchaseable, unless—

(1) such repurchase may be made only after the expiration of two years after such program commenced operations, except that a repurchase of a program participation by a production purchase program may be made when such program has fully invested the proceeds of the sale of such participations;

(2) the person obligated to make such repurchase is not a registered oil program;

(3) such repurchase may be made only in cash and in an amount equal to the value of such participation; and

(4) any person obligated to make such repurchase and any person obligated by contract to furnish such person the funds to make such repurchase maintain a combined net worth at least equal to 15 per centum of the amount of program participations such person may be obligated to repurchase in all registered oil programs.

For the purposes of this subsection, the value of any oil or gas reserves, determined in the manner provided in subsection (a)(1)(A) of this section, owned by a person obligated to repurchase may be used in computing the net worth of such person.

(c) No person who is obligated to repurchase any program participation issued by a registered oil program pursuant to subsection (b) and no such program or its manager shall suspend the right of repurchase or postpone the date of satisfaction upon such repurchase for more than seven days after the date specified for repurchase, except—

(1) for any period during which an emergency exists as a result of which disposal by the person obligated to repurchase of sufficient assets to meet its obligations is not reasonably practicable; or

(2) for such other periods as the Commission may by order permit for the protection of holders of program participations.

The Commission may by rules and regulations determine the conditions under which the emergency described in clause (1) shall be deemed to exist within the meaning of this subsection.

(d) For the purposes of subsections (a) and (b), the following interpretive rules shall apply:

(1) The value of program participations of a registered oil program means the fair value of oil and gas reserves and other assets of such program determined in accordance with the following procedure:

(A) The present worth of future net revenues attributable to oil and gas reserves of such program shall be determined by an independent petroleum engineer within one hundred and twenty days of the date proposed for the exchange or of the date upon which repurchase is to be made, with such supplemental revisions to update such determination as may be necessary to reflect any material changes. The person obligated to make the exchange or repurchase shall discount future net revenues in good faith to arrive at the present worth of dollars to be received in the future, and such present worth shall be discounted by such person in good faith for risk to arrive at fair value.

(B) The fair value of other assets of such program shall be determined in good faith by the person obligated to make the exchange or repurchase.

(2) The value of securities of a company for which market quotations are readily available means the market value of such securities.

(3) The value of securities of a company for which no market quotations are readily available means the fair value of such securities as determined in good faith by the person obligated to make the exchange or repurchase.

(e) It shall be unlawful for any registered oil program to issue any program participation which (1) provides for mandatory assessments upon the holder thereof which exceed 15 per centum of the initial subscription price, or (2) which provide for any penalty or forfeiture of the holder's interest in such program for failure to pay any assessment, whether such assessment is mandatory or optional. With respect to a failure to pay a mandatory assessment, "penalty or forfeiture" means the loss by the holder of a program participation (i) of any interest in such program or in any of such program's properties in excess of 300 per centum of the amount of such unpaid mandatory assessment, or (ii) in the event of any legal action to collect any such unpaid assessment, of any amount in excess of such unpaid assessment and such actual damages to the program caused by the failure to pay such assessment as may be awarded in a judgment against such holder. With respect to a failure to pay an optional assessment, a "penalty or forfeiture" means any loss by the holder of the program participation of any interest in such program or in any of such program's properties, other than reduction of such holder's interest in the oil program to the ratio of his capital contribution.

FUNCTIONS AND ACTIVITIES OF OIL PROGRAMS

SEC. 11. (a) It shall be unlawful for any registered oil program and any company or companies controlled by such oil program to hold, purchase, or otherwise acquire any program participation issued by any other oil program and for any oil program and any company or companies controlled by such program to hold, purchase, or otherwise acquire any program participation issued by any registered oil program.

(b) It shall be unlawful for any registered oil program, any principal underwriter therefor, or any broker or dealer registered under the Securities Exchange Act of 1934, knowingly to sell or otherwise dispose of any program participation issued by such registered oil program to any other oil program or any company or companies controlled by such other oil program.

(c) Notwithstanding subsection (a), a registered oil program may hold, purchase, or acquire the program participation of one or more operating entities, but the prohibitions in subsection (a) shall apply to any such operating entity.

(d) It shall be unlawful for any registered oil program and any company or companies controlled by such oil program to hold, purchase, or otherwise acquire any security issued by, or any other interest in, the business of an investment company as that term is defined in the Investment Company Act of 1940.

(e) Notwithstanding subsections (a) and (b), a registered production purchase program may hold, purchase, or otherwise acquire a program participation issued by any oil program, except that such production

purchase program shall not be required to pay any sales charge or management fee by reason of holding, purchasing, or acquiring such participation.

CHANGES IN FUNDAMENTAL POLICY

SEC. 12. (a) Every registered oil program shall include in the instrument pursuant to which it is organized the recitals of policy and information required by section 7(b) to be set forth in its registration statement.

(b) No registered oil program, unless authorized by the vote of the holders of a majority of its outstanding program participations, shall—

(1) change its classifications as defined in subsection (a) or (b) of section 5, except with respect to said subsection (b), a change in classification from diversified to nondiversified resulting from a force majeure;

(2) borrow money, make loans to other persons, make assessments, purchase or sell securities of other issuers (other than securities which are oil and gas interests), purchase or sell real estate (other than oil and gas interests) or commodities, except in each case in accordance with the recitals in its registration statement in respect thereto;

(3) deviate from any policy recited in its registration statement pursuant to section 8(b)(2) or deviate from its area of interest described pursuant to section 8(b)(3);

(4) issue any program participation not specifically described pursuant to section 8(b)(4); or

(5) change the nature of its business so as to cease to be an oil program, except pursuant to the dissolution of such program.

(c) A change in the policies of an operating entity of a registered oil program shall be deemed to be a change in the policies of such registered program with respect to such operating entity.

(d) Nothing contained in this section shall affect any limitations of liability to which the holders of program participations of a registered oil program would otherwise be entitled under the laws of any State.

(e) For the purposes of subsection (b), a program participation of a registered oil program shall have equal voting rights, with every other outstanding program participation.

SIZE OF OIL PROGRAMS

SEC. 13. No registered oil program and no principal underwriter of such program shall make a public offering of program participations issued by such program unless—

(1) the net worth of the manager of such program meets the requirements of section 14(a); and

(2) provision is made in connection with and as a condition of the registration of such participations under the Securities Act of 1933 which in the opinion of the Commission adequately insures that (A) such program will not commence operations until cash or subscriptions for such participations are received in an amount equal to at least the greater of $250,000 or such other amount established by such program; (B) that arrangements will be made whereby any proceeds so paid in, including any sales charges, will be placed immediately in an account with a bank pursuant to section 19(h) and will be refunded promptly to any subscriber without any deduction, in the event that the proceeds or subscriptions so received by such oil program do not equal the minimum amount required in clause (A) of this paragraph within ninety days after the date specified in the registration statement for commencement of operations of such program; and (C) that the offering of program participations of such program or of any other program with the same manager shall terminate for any period of time during which the net worth of such manager fails to meet the requirements of section 14(a).

MANAGEMENT AGREEMENTS

SEC. 14. (a)(1) It shall be unlawful for any person to serve or act as manager of a registered oil program unless the net worth of such person at all times is at least equal to the greater of (T) $250,000, or (B) the lesser of $1,000,000 or 5 per centum of the total capital contributions made by the holders of program participations issued by all registered oil programs, of which such person is a manager, organized during the two-year period immediately preceding the determination of such net worth.

(2) The value of reserves of oil, gas and other minerals determined in the manner provided in section 10(d)(1)(A) owned by a manager and the net worth of any guarantor of such manager's obligations to or for the oil program to the extent of the amount guaranteed may be used in computing the net worth of such manager.

(3) If more than one person acts or serves as manager to a registered oil program, the net worth requirements of this subsection (a) may be met by aggregating the net worth of such persons in accordance with such rules and regulations the Commission shall adopt which are consistent with the intent of this subsection.

(b) It shall be unlawful for any person to serve or act as manager of a registered oil program except pursuant to a written contract. Such contract (whether with such program or with the manager of such program) shall have been approved by the vote of the holders of a majority of the outstanding program participations of such program, and shall conform to the following requirements:

(1) It shall precisely describe the basis for the calculation of all compensation to be paid thereunder.

(2) It shall precisely describe the allocation of costs and revenues between holders of program participations and the manager or the basis upon which such allocation is to be made.

(3) It shall provide in substance for its automatic termination in the event of its assignment, unless a contract with the assignee is approved within ninety days of such assignment by the vote of the holders of a majority of the outstanding program participations. If such approval is not obtained, the oil program shall be dissolved in accordance with the provisions of the instrument pursuant to which it is organized, and the manager shall continue to be responsibe for the operations of such program until the time such program is deregistered pursuant to section 8(e). Such program shall be dissolved and liquidated as of a date determined by the manager, but not later than 60 days after the start of the taxable year of such program next following the date of such assignment.

(4) It shall provide in substance that any material change in its terms must be approved by the vote of the holders of a majority of the outstanding program participations of such program.

For the purposes of this subsection (b), a purchaser of a program participation of a registered oil program in connection with the offering of program participations of such oil program, shall be deemed to have approved any such contract, the material terms of which are set forth in the prospectus by which such security is offered.

(c) Nothing contained in this section shall affect any limitations of liability to which holders of program participations of a registered oil program would otherwise be entitled under the laws of any State.

(d) For the purposes of subsection (b), a program participation of a registered oil program shall have equal voting rights with every other outstanding program participation.

LOANS

SEC. 15. (a) It shall be unlawful for any registered oil program to lend money or other property to any person, directly or indirectly, if—

(1) the policies of such oil program, as recited in its registration statement and reports filed pursuant to this Act, do not permit such a loan; or

(2) such person is a manager or principal underwriter of such program, or an affiliated person of such manager or principal underwriter.

(b) Nothing in this section shall be deemed to prohibit—

(1) a payment of money to a manager or principal underwriter of a registered oil program, or an affiliated person of either, to be used to discharge an obligation of such program in a case in which (i) the borrower incurs or has incurred an obligation in connection with operations of the program, (ii) it is not possible in advance to allocate the proportional obligations of the program and such borrower, (iii) it ultimately appears that the proceeds of such loan have been used to discharge an obligation of such borrower, and (iv) such loan is repaid within forty-five days after such proportionate obligations are determinable;

(2) the proceeds of a loan of money from being used for the benefit of a registered oil program in a joint venture, partnership, or sharing arrangement otherwise permitted by this Act; or

(3) such a registered oil program advancing money through its manager or principal underwriter, or affiliated person of either, in connection with a joint venture, copartnership, or other sharing arrangement, if the joint venture, copartnership, or other sharing arrangement instrument provides for reimbursement to the program within forty-five days of such advance.

PERIODIC PAYMENTS OR INSTALLMENTS

SEC. 16. (a) It shall be unlawful for any registered oil program to issue any program participation, the purchase price of which is payable in installments—

(1) unless such installments, after the initial payment required by the terms of the offering, are required to be made in not more than three payments and to be paid in full not later than twelve months from the date on which such program commences operations;

(2) if such security provides for any penalty or forfeiture of the holder's interest in such oil program for failure to pay any installment.

For the purposes of clause (2) of this subsection, "penalty or forfeiture" has the same meaning as penalty or forfeiture as used with respect to mandatory assessments in section 10(e).

(b) The sale of a program participation issued by an oil program, the purchase price of which is payable in installments in compliance with subsection (a), shall not be deemed to be an extension of credit by any person for the purposes of the Securities Exchange Act of 1934, nor shall the distribution of such a security involve an arrangement for the extension of credit for such purposes.

REORGANIZATIONS

SEC. 17. (a) Any person who proposes any plan of reorganization of a registered oil program shall—

(1) file with the Commission, at least thirty days prior to the proposed date of such reorganization, a copy of such plan and any deposit agreement relating thereto; and

(2) file with the Commission, at least ten days prior to its use, any proxy, consent, authorization, power of attorney, ratification, instrument of deposit, or instrument of dissent in respect of such plan;

if any such documents have not already been filed with the Commission.

(b) Any district court of the United States in the State of incorporation of a registered oil program, or any such court for the district in which such company maintains its principal place of business, is authorized to enjoin the consummation of any plan of reorganiza-

tion of such program upon proceedings instituted by the Commission (which is authorized so to proceed upon behalf of holders of program participations in such program, or any class thereof), if such court shall determine that any such plan is not fair and equitable to all holders of such participations.

(c) Nothing in this section shall in any way effect or derogate from the powers of the courts of the United States, and the Commission with reference to reorganization, contained in the Bankruptcy Act.

PROXIES

SEC. 18. It shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce or otherwise, to solicit or to permit the use of his name to solicit any proxy or consent or authorization for any change in the recitals of policy contained in the registration statement of a registered oil program or for any change in the program agreement or management agreement of such oil program in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest and for the protection of investors.

TRANSACTIONS WITH AFFILIATED PERSONS

SEC. 19. (a) (1) It shall be unlawful for any manager, promoter, or principal underwriter of a registered oil program, or any affiliated person of such manager, promoter, or principal underwriter, to purchase property from or sell property to such program, except under the following conditions:

(A) In the case of a sale of property to such program, such sale shall be made at cost unless the seller has reasonable grounds to believe that cost is materially more than the fair market value of such property, in which case such sale shall be made for a price not in excess of its fair market value.

(B) In the case of a purchase of property from such program, such purchase shall be made at fair market value unless the buyer has reasonable grounds to believe that the cost is materially higher than fair market value, in which case such sale shall be made for a price not less than cost.

This subsection shall not apply to any transactions among oil programs by which property is transferred from one to another in exchange for the transferee's obligation to conduct drilling activities on the property transferred or to joint ventures among such oil programs, if the compensation arrangement of the manager and each affiliated person in each such oil program is the same, or is reasonably calculated to be the same.

(2) Every registered oil program shall file annually with the Commission and transmit to holders of program participations a report of all purchases and sales subject to paragraph (1) of this subsection. Such report shall contain such additional information and documents as the Commission may by rule or regulation prescribe.

(b) (1) Prior to the expiration of a period of three years from the date on which a registered oil program has spent and charged to the accounts of the holders of program participations of such programs an amount of money equal to the purchase price of such program participations, less the sales load thereon, it shall be unlawful for any manager of a registered oil program, or any controlling person of such manager, to engage directly or indirectly in the drilling for oil or gas or to retain or acquire any oil or gas interest, for the account of such manager or controlling person, in the area of interest of such oil program in a manner which unfairly discriminates against such oil program in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing such unfair discrimination in the exploration for and development of oil and gas interests by such manager or controlling person.

(2) For the purposes of paragraph (1) it shall not be deemed unfair discrimination if a manager of a registered oil program or any controlling person of such manager, after expenditure of the purchase price of the program participations, drills for oil or gas or holds or acquires any oil or gas interest within the area of interest of such program on a separate geological prospect, if (A) the prospects upon which the oil program has drilled or owns an interest have been adequately delineated as determined by the Commission upon application so as to reasonably demonstrate that the activities of such manager or controlling person are on separate geological prospects; or (B) such manager or controlling person files with the Commission an undertaking, on such form as shall be prescribed by the Commission for the purpose, that such manager or controlling person is no longer engaged in the oil program business.

(c) In addition to the prohibitions set forth in subsection (b), it shall be unlawful, during the existence of a registered oil program and before it has deregistered, for the manager of such program or any controlling person of such manager to acquire, retain, or drill for its own account on any oil or gas interest on any prospect upon which such program possesses an interest. If the geographical limits of a prospect are enlarged to encompass any interest held by such manager or controlling person, such interest shall be sold to such program in accordance with the provisions of subsection (a) (1) (A) of this section and any net income received by the manager or controlling person shall be paid over to such program.

(d) Unless otherwise provided in this section, no manager of a registered oil program or controlling person of such manager shall be deemed to own any oil or gas interest or to be engaged in the drilling for oil or gas for his own account—

(1) solely by reason of his participation or interest in an oil program, if such oil program is registered under this Act; or

(2) if the manager or controlling person retains the same proportionate interest in all properties upon which the oil program owns an interest or conducts its activities and such manager or controlling person is obligated to participate with such program in the exploration and development of the property on a cost basis proportionate to its retained interests in such properties.

(e) Nothing contained in subsection (b) or (c) shall apply to—

(1) the acquisition by a manager of a registered oil program or controlling person of such manager of any oil or gas interest which is at the time of acquisition producing oil or gas in paying quantities, or to subsequent development thereof by such manager or controlling person, unless such oil program is primarily engaged or proposes to become so engaged in similar acquisitions; or

(2) to the development of any oil or gas interest which on the effective date of this Act any manager of a registered oil program or controlling person of such manager of an oil program is in fact exploring or developing for its own account.

(f) It shall be unlawful for any manager or controlling person of a registered oil program to participate in or otherwise hold any interest in such oil program (including any right to receive compensation, directly or indirectly, as manager of such oil program), if such program (hereinafter referred to in this subsection as "the second program") is engaged in drilling for oil or gas within twenty-five miles of a prospect which is being drilled, or was drilled at any time during the preceding three years, by another oil program in which such manager or controlling person had a participation or interest (hereinafter referred to in this subsection as "the first program"), unless the participation or the interest is the same as or is reasonably calculated not to exceed the participation or the interest of such manager or controlling person in the first program. The limitation contained in this subsection shall not apply after expenditure of the purchase price of program participations in the first program, if the prospects upon which such program has drilled have been adequately delineated, as determined by the Commission upon application, so as to reasonably demonstrate that the second program's activities are on separate geological prospects.

(g) (1) It shall be unlawful for any manager, or principal underwriter of a registered oil program, or any affiliated person of such manager or principal underwriter, to render to such program any services (other than administrative and similar services pursuant to a management agreement or services pursuant to an underwriting agreement), including those of field geologists, engineers, and drilling services, or to sell or lease to such program any equipment or related supplies, unless—

(A) such manager, principal underwriter, or affiliated person is engaged, independently of such program and as an ordinary and ongoing business, in rendering such services or selling or leasing such equipment and supplies to other persons in the oil and gas industry in addition to oil programs in respect of which such person, principal underwriter, or affiliated person serves or acts in such capacities;

(B) such services, equipment or supplies are necessary and appropriate in the ordinary course of such program's business; and

(C) the compensation, price or rental therefor is competitive with the compensation, price, or rental of any other person who is engaged in the business of rendering comparable services or selling or leasing comparable equipment and supplies which could reasonably be made available to such program.

Notwithstanding subparagraph (A) hereof, if such person, principal underwriter, or affiliated person is not engaged in a business within the meaning of such subparagraph, then such compensation, price, or rental shall be at the cost of such services, equipment, or supplies to such person, principal underwriter, or affiliated person or at a compensation, price, or rental which is competitive within the meaning of this paragraph (1), whichever is less, or at a compensation, price, or rental established by competitive bidding.

(2) Every registered oil program shall file annually with the Commission and transmit to holders of program participations a report of all purchases of services and purchases and rentals of equipment and supplies subject to paragraph (1) of this subsection. Such report shall contain such additional information and documents as the Commission may by rules and regulations prescribe.

(h) Every oil program shall place and maintain its cash and securities (other than oil and gas interests) in a bank segregated from the account and assets of any other person, and such assets shall only be removed upon the signature of two officers or the manager, subject to such rules or regulations as the Commission may prescribe. The Commission may require, by rules and regulations or orders for the protection of holders of program participations, that any affiliated person of the manager of a registered oil program who may, singly or jointly with others, have access to the funds or other assets of any registered oil program, either directly or through authority to draw upon such funds or assets, be bonded by a reputable fiduciary insurance company against larceny and embezzlement in such reasonable minimum amounts as the Commission may prescribe.

(i) No instrument pursuant to which a registered oil program is organized or administered shall contain any provision which protects or purports to protect any director

or officer of a manager of such oil program against any liability to the program or the holders of program participations to which he would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

(j) No contract or agreement under which any person undertakes to act as manager of, or principal underwriter for, an oil program shall contain any provision which protects or purports to protect such person against any liability to such oil program, or the holders of its program participations, to which he would otherwise be subject by reason of willful misfeasance, bad faith, or gross negligence in the performance of his duties, or by reason of his reckless disregard of his obligations and duties under such contract or agreement.

SUITABILITY; DISTRIBUTION OF OIL PROGRAM SECURITIES

SEC. 20. (a) A securities association registered under section 15A of the Securities Exchange Act of 1934, by rules adopted and in effect in accordance with that section and subject to the provisions of that section applicable to rules of such an association, may prescribe—

(1) standards of suitability for investment in a registered oil program by investors; and

(2) requirements relating to the content and filing with such association of sales literature to be used in connection with the distribution of program participations of registered oil programs;

in order that distribution of oil program participations be carried on in each case in a fair and equitable manner consistent with the protection of investors.

(b) Such a securities association may also, by rules adopted and in accordance with section 15A of the Securities Exchange Act of 1934, and notwithstanding the provisions of subsection (b)(8) thereof but subject to all other provisions of that section applicable to the rules of such an association, prohibit its members from purchasing, in connection with a primary distribution of program participations issued by a registered oil program, any such program participation from the issuer or from any principal underwriter, unless (1) at a price equal to the price at which such program participation is then offered to the public less a commission, discount, or spread which is computed in conformity with a method or methods, and within such limitations in relation to such public offering price as such rules may prescribe in order that the price at which such program participation is offered or sold to the public shall not include an excessive sales load while allowing for reasonable sales loads to investors, and (2) the distribution of such program participation is consistent with the rules and regulations of such association adopted pursuant to subsection (a).

(c) Such a security association may further adopt rules in accordance with section 15A of the Securities Exchange Act of 1934, and subject to all provisions of that section applicable to rules of such an association, which prescribe—

(1) a classification system for the various methods of compensating the management of registered oil programs and allocating costs and revenues between investors and management; and

(2) definitions of terms used by registered oil programs to describe such compensation and allocation in order to give investors the opportunity to make in each case meaningful comparisons of the management compensation arrangements of registered oil programs, and otherwise to protect investors.

(d)(1) The Commission may make such rules and regulations pursuant to section 15(b)(10) of the Securities Exchange Act of 1934 as are appropriate to effectuate the purposes of subsections (a), (b), and (c) of this section with respect to the distribution of registered oil program participations by broker-dealers subject to regulation under section 15(b)(8) of that Act: Provided, That a broker-dealer may file with the Commission at any time a notice of election to comply with the rules prescribed pursuant to subsection (a), (b), or (c) by a national securities association and thereafter the standards prescribed by such rules of such association shall be applicable to such broker-dealer, and the rules of the Commission as hereinabove authorized shall thereafter be inapplicable to such distributions.

(2) The Commission may make rules and regulations applicable to registered oil programs, principal underwriters of, and dealers in, the program participations of any registered oil program, whether or not members of any securities association, to the same extent, covering the same subject matter, and for the accomplishment of the same ends as are prescribed in subsections (a), (b), and (c) in respect of the rules which may be made by a registered securities association governing its members. Any rules and regulations so made by the Commission, to the extent that they are inconsistent with the rules of any such association, shall, so long as they remain in force, supersede the rules of the association and be binding upon its members as well as all other underwriters and dealers to whom they may be applicable.

(e) In addition to the authority given by subsection (d), the Commission may abrogate, in whole or in part, the rules of any securities association adopted pursuant to subsections (a), (b), or (c) in the manner provided by section 15A(k)(1) of the Securities Exchange Act of 1934.

(f) If any provision of this section is in conflict with any provision of any law of the United States in effect on the date this section takes effect, the provisions of this section shall prevail.

(g) No registered oil program shall issue any program participation for services, or property other than cash or readily marketable securities.

(h) No registered oil program shall issue any program participation to the public at a price less favorable than the price paid by the manager of such oil program or any affiliated person of such manager for any other program participation issued by such program.

REGISTRATION OF SECURITIES UNDER THE SECURITIES ACT OF 1933

SEC. 21. (a) A registered oil program, in registering under the Securities Act of 1933 any program participation of which it is the issuer, may, in lieu of furnishing a registration statement containing the information and documents specified in schedule A of that Act, file a registration statement containing the following information and documents;

(1) Such copies of the registration statement filed by the company under this Act and such copies of such reports filed by the company pursuant to section 27, or such copies of portions of such registration statement and reports, as the Commission shall designate by rules and regulations.

(2) Such additional information and documents (including a prospectus) as the Commission shall prescribe by rules and regulations as necessary or appropriate in the public interest or for the protection of investors.

(b) The exemption provided by paragraph (11) of section 3(a) of the Securities Act of 1933 shall not apply to any program participation of which a registered oil program is the issuer, except a participation sold or disposed of by the issuer or bona fide offer to the public prior to the effective date of this Act. The exemption provided by section 4(3) of the Securities Act of 1933 shall not apply to any transaction in a program participation issued by a registered oil program if any other program participation of the same class is currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempt from section 5 of that Act.

LARCENCY AND EMBEZZLEMENT

SEC. 22. Whoever steals, unlawfully abstracts, unlawfully and willfully converts to his own use or to the use of another, or embezzles any of the moneys, funds, securities, credits, property, or assets of any registered oil program shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties provided in section 45. A judgment or conviction or acquittal under the laws of any State shall be a bar to any prosecution under this section for the same act or acts.

FRAUD

SEC. 23. (a) It shall be unlawful for any oil program, or the manager of any oil program, or any affiliated person of such manager, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(1) to employ any device, scheme, or artifice to defraud any investor or prospective investor in any such oil program;

(2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any investor or prospective investor in any such oil program; or

(3) to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative.

(b) For the purposes of this section, the Commission by rules and regulations may define, and prescribe means reasonably designed to prevent the acts and practices prohibited in clause (1), (2), or (3) of subsection (a). For the purposes of this section, "oil program" means any oil program registered under this Act and any issuer excepted from the definition of oil program by virtue or paragraphs (2) and (6) of section 4(c).

MISLEADING NAMES

SEC. 24. (a) It shall be unlawful for any person, in issuing or selling any program participation of which a registered oil program is the issuer, to represent or imply in any manner whatsoever that such participation or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof.

(b) It shall be unlawful for any person registered under any section of this Act to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon by the United States or any agency or officer thereof.

(c) Subsections (a) and (b) shall not be construed to prohibit a statement that a person or program participation is registered under this Act, the Securities Act of 1933, or the Securities Exchange Act of 1934, if such statement is true in fact and if the effect of such registration is not misrepresented.

(d) It shall be unlawful for any registered oil program hereafter to adopt as part of the name or title of such oil program, or of any program participation of which it is the issuer, the words "mutual fund", "investment company", or any other word or words which the Commission finds and by order declares to be deceptive or misleading. The Commission is authorized to bring an action in the proper district court of the United States, or the United States court of any territory or other place subject to the jurisdiction of the United States, alleging that the name or title of any registered oil program, or of any program participation which it has issued, is materially deceptive and misleading.

(e) It shall be unlawful for any person, in issuing or selling any program participation

of which a registered oil program is similar or otherwise comparable to an investment in a participation of an oil program is similar or otherwise comparable to an investment in an investment company registered under the Investment Company Act of 1940.

FILING OF DOCUMENTS WITH COMMISSION IN CIVIL ACTIONS

SEC. 25. Each registered oil program which is a party and each affiliated person of such oil program and each affiliated person of the manager of such oil program which is a party defendant to any action or claim by a registered oil program or a program participant thereof in a derivative or representative capacity against an officer, director, or manager of such oil program or affiliated person of such manager, shall file with the Commission, unless already so filed, (1) a copy of all pleadings, verdicts, or judgments filed with the court or served in connection with such action or claim, (2) a copy of any proposed settlement, compromise or discontinuance of such action, and (3) a copy of such motions, transcripts, or other documents filed in or issued by the court or served in connection with such action or claim as may be requested in writing by the Commission. If any document referred to in clause (1) or (2)—

(A) is delivered to such oil program or party defendant, such document shall be filed with the Commission not later than ten days after the receipt thereof; or

(B) is filed in such court or delivered by such company or party defendant, such document shall be filed with the Commission not later than five days after such filing or delivery.

DESTRUCTION AND FALSIFICATION OF REPORTS AND RECORDS

SEC. 26. (a) It shall be unlawful for any person, except as permitted by rule, regulation, or order of the Commission, willfully to destroy, mutilate, or alter any account, book, or other document the preservation of which has been required pursuant to section 28(a) or 27(f).

(b) It shall be unlawful for any person to make any untrue statement of a material fact in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to this Act or the keeping of which is required pursuant to section 28(a). It shall be unlawful for any person so filing, transmitting, or keeping any such document to omit to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading. For the purposes of this subsection, any part of any such document which is signed or certified by an accountant or auditor in his capacity as such shall be deemed to be made, filed, transmitted, or kept by such accountant or auditor, as well as by the person filing, transmitting, or keeping the complete document.

PERIODIC AND OTHER REPORTS

SEC. 27. (a) Each registered oil program shall file annually with the Commission such information, documents, and reports in such form and containing such information as the Commission by rules and regulations shall prescribe as necessary or appropriate in the public interest and for the protection of investors.

(b) Each registered oil program shall file with the Commission—

(1) such information and documents (other than financial statements) as the Commission may require, on a semiannual basis, to keep reasonably current the information and documents contained in the registration statement of such oil program filed under this Act; and

(2) copies of every periodic or interim report or similar communication containing financial statements and transmitted to any class of holders of such oil program's program participations, such copies to be filed not later than ten days after such transmission.

Any information or documents contained in a report or other communication to holders of program participants filed pursuant to paragraph (2) may be incorporated by reference in any report subsequently or concurrently filed pursuant to paragraph (1).

(c) Each registered oil program shall transmit to the holders of its program participations, at least semiannually, reports containing such information and financial statements or their equivalent, as of a reasonably current date, as the Commission may prescribe by rules and regulations for the protection of investors, which reports shall not be misleading in any material respect in the light of the reports required to be filed pursuant to subsections (a) and (b).

(d) Each registered oil program which issues a program participation which provides for any assessment shall transmit to its program participants prior to making any such assessment a report containing such information and financial statements as the Commission may prescribe by rules and regulations for the protection of investors.

(e) Financial statements contained in annual reports required pursuant to subsection (a), if required by the rules and regulations of the Commission, shall be accompanied by a certificate of independent public accountants and independent petroleum engineers. The certificate of independent public accountants shall be based upon an audit not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the Commission may prescribe by rules and regulations in the public interest or for the protection of investors, as to the nature and scope of the audit and the finding and opinion of the accountants.

(f) The Commission is authorized, by rules and regulations or order in the public interest or for the protection of investors, to require accountants, auditors, and independent petroleum engineers to keep reports, worksheets, and other documents and papers relating to registered oil programs for such period or periods as the Commission may prescribe, and to make the same available for inspection by the Commission or any member or representative thereof.

(g) No registered oil program shall be subject to the reporting or registration requirements of the Securities Exchange Act of 1934 with respect to any program participation of such a program.

ACCOUNTS AND RECORDS

SEC. 28. (a) Each registered oil program and each manager of a registered oil program shall maintain and preserve for such period or periods as the Commission may prescribe by rules and regulations such accounts, books, and other documents as constitute the record forming the basis for financial statements required to be filed pursuant to section 27 of this Act, and of the auditors' certificates relating thereto.

(b) All accounts, books, and other records, required to be maintained and preserved by any person pursuant to subsection (a) shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Any such person shall furnish to the Commission, within such reasonable time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay, as the Commission may by order require.

(c) The Commission may, in the public interest or for the protection of investors, issue rules and regulations providing for a reasonable degree of uniformity in the accounting policies and principles to be followed by registered oil programs in maintaining their accounting records and in preparing financial statements required pursuant to this Act.

(d) The Commission, upon application made by any registered oil program, may by order exempt a specific transaction or transactions from the provisions of any rule or regulation made pursuant to subsection (c), if the Commission finds that such rule or regulation should not reasonably be applied to such transaction.

CONFORMANCE OF EXISTING OIL PROGRAMS

SEC. 29. Oil programs which have commenced operations prior to the effective date of this Act shall be subject only to such provisions of this Act as the Commission shall by rules and regulations declare applicable thereto. In adopting such rules and regulations the Commission shall give appropriate consideration to the purposes fairly intended by the policy and provisions of this Act, the protection of holders of program participations, and the difficulty in adapting existing oil programs to the provisions hereof. No oil program which has commenced operations prior to such effective date shall be subject to the provisions of sections 4, 12, 13, and 19 of this Act.

EXEMPTION FROM INVESTMENT COMPANY ACT OF 1940

SEC. 30. (a) No oil program which is registered or required to register under this Act shall be deemed to be an investment company as that term is defined in the Investment Company Act of 1940, nor shall any such oil program be subject to any of the provisions of that Act.

(b) No manager of an oil program shall be deemed to be an investment adviser as that term is defined in the Investment Advisers Act of 1940, nor shall any such manager be subject to any of the provisions of that Act.

STUDY OF OIL PROGRAMS

SEC. 31. The Commission is authorized to make studies and investigations of oil programs to determine their sizes, types, and the locations and nature of their activities and obtain such other data and information as may be reasonably necessary for the Commission to implement and administer the policies and provisions of this Act. The Commission shall make public from time to time its findings and recommendations resulting from such studies and investigations.

REINVESTMENT OF INCOME OR CASH FLOW

SEC. 32. (a) No registered oil program shall require any holder of any program participation issued by such program to reinvest such holder's share of such program's income or cash flow in any other oil program.

(b) Nothing in subsection (a) shall be interpreted to prohibit a registered oil program from making available to the holders of its program participations an optional plan for reinvestment of such holders' shares of such program's income or cash flow in another registered oil program, if prior to any such reinvestment each holder of such program participations is furnished a prospectus of such other program and complete information on the amount of income or cash flow to which each such holder is entitled.

TAX RULING OR OPINION

SEC. 33. It shall be unlawful for any registered oil program to conduct any business or to make a public offering of its program participations unless it has obtained a tax ruling from the Internal Revenue Service or an opinion of counsel (which may contain reasonable qualifications, assumptions and conditions) that investors in such program

will obtain the Federal tax results described in the prospectus of such program.

RULES AND REGULATIONS; PROCEDURES

SEC. 34. Subject to the requirements of sections 551–559 and 701–706 of title 5, United States Code, and chapter 15 of title 44, United States Code, rules and regulations of the Commission under this Act, and amendments thereof, shall be effective upon the date and in the manner which the Commission shall prescribe in such rules or regulations.

ORDERS; PROCEDURES FOR ISSUANCE

SEC. 35. (a) Orders of the Commission under this Act shall be issued only after appropriate notice and opportunity for hearing. Notice to the parties to a proceeding before the Commission shall be given by personal service upon each party or by registered mail or certified mail or confirmed telegraphic notice to the party's last known business address. Notice to interested persons, if any, other than parties may be given in the same manner or by publication in the Federal Register.

(b) The Commission may provide, by appropriate rules or regulations, that an application verified under oath may be admissible in evidence in a proceeding before the Commission and that the record in such a proceeding may consist, in whole or in part, of such application.

(c) In any proceeding before the Commission, the Commission, in accordance with such rules and regulations as it may prescribe, shall admit as a party any interested State or State agency, and may admit as a party any representative of interested program participants or any other person whose participation in the proceeding may be in the public interest or for the protection of investors.

RULES, REGULATIONS, AND ORDERS; GENERAL POWERS OF THE COMMISSION

SEC. 36. (a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to carry out the provisions of this Act, including rules and regulations defining accounting, technical, and trade terms used in this Act, and prescribing the form or forms in which information required in registration statements, applications, and reports to the Commission shall be set forth. For the purposes of its rules or regulations, the Commission may classify persons, securities, and other matters within its jurisdiction and prescribe different requirements for different classes of persons, securities, or matters.

(b) The Commission, by such rules and regulations or orders as it deems necessary or appropriate in the public interest or for the protection of investors, may authorize the filing of any information or documents required to be filed with the Commission under this Act, the Securities Act of 1933, or the Securities Exchange Act of 1934, by incorporating by reference any information or documents theretofore or concurrently filed with the Commission under this Act or any of such Acts.

(c) No provision of this Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order of the Commission, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

HEARINGS BY COMMISSION

SEC. 37. Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

ENFORCEMENT

SEC. 38. (a) The Commission may make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Act or of any rule, regulation, or order hereunder, or to determine whether any action in any court or any proceeding before the Commission shall be instituted under this Act against a particular person or persons, or with respect to a particular transaction or transactions. The Commission shall permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(b) For the purpose of any investigation or any other proceeding under this Act, any member of the Commission, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, contracts, agreements, or other records which are relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

(c) In case of contumacy by or refusal to obey a subpena issued to any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, contracts, agreements, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who without just cause shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memorandums, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpena of the Commission, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or both.

(d) Whenever it shall appear to the Commission that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this Act, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper district court of the United States, or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this Act or any rule, regulation, or order thereunder. Upon a showing that such person has engaged or is about to engage in any such act or practice, a permanent or temporary injunction or decree or restraining order shall be granted without bond. In any proceeding under this subsection to enforce compliance with section 7, the court as a court of equity may, to the extent it deems necessary or appropriate, take exclusive jurisdiction and possession of the oil program or programs involved and the books, records, and assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, who with the approval of the court shall have power to dispose of any or all of the program's assets, or, if it appears that such course would be more advantageous to the holders of program participations of such program, to operate the program's business, subject to such terms and conditions as the court may prescribe. The Commission may transmit such evidence as may be available concerning any violation of the provisions of this Act, or of any rule, regulation, or order thereunder, to the Attorney General who, in his discretion, may institute the appropriate criminal proceedings under this Act.

COURT REVIEW OF ORDERS

SEC. 39. (a) Any person or party aggrieved by an order issued by the Commission under this Act may obtain a review of such order in the court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission or unless there were reasonable grounds for failure so to do. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Commission 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.

(b) The commencement of proceedings under subsection (a) to review an order of the Commission issued under section 8(d) shall operate as a stay of the Commission's order unless the court otherwise orders. The commencement of proceedings under subsection (a) to review an order of the Commission issued under any provision of this Act other than section 8(d) shall not operate as a stay of the Commission's order unless the court specifically so orders.

JURISDICTION OF OFFENSES AND SUITS

SEC. 40. The district courts of the United States and the United States courts of any

territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act, or the rules, regulations, or orders therunder, and, concurrently with State and territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this Act or the rules, regulations, or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. A criminal proceeding based upon a violation of section 26, or upon a failure to file a report or other document required to be filed under this Act, may be brought in the district wherein the defendant is an inhabitant or maintains his principal office or place of business. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this Act or rules, regulations, or orders thereunder, may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292, and 1294 of title 28, United States Code. No costs shall be assessed for or against the Commission in any proceeding under this Act brought by or against the Commission in any court.

ANNUAL REPORTS OF COMMISSION: EMPLOYEE COMMISSION

SEC. 41. (a) The Commission shall submit, in its report to the Congress covering the work of the Commission for the preceding year, such information, data, and recommendations for further legislation in connection with the matters covered by this Act as it may deem advisable.

(b) For the purposes of this Act, the Commission may, subject to the provisions of title 5, United States Code governing appointments in the competitive service, appoint such attorneys, examiners, and other experts, and such other officers and employees as are necessary in the execution of the functions of the Commission and fix their salaries in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

INFORMATION FILED WITH COMMISSION

SEC. 42. (a) The information contained in any registration statement, application, report, or other document filed with the Commission pursuant to this Act or of any rule or regulation thereunder shall be made available to the public except information subject to section 552(b) of the title 5, United States Code. It shall be unlawful for any member, officer, or employee of the Commission to use for personal benefit, or to disclose to any person other than an official employee of the United States or of a State for official use, or for any such official or employee to use for personal benefit, any information continued in any document so filed or transmitted, if such information is not available to the public.

(b) Photostatic or other copies of information contained in documents filed with the Commission under this Act and made available to the public shall be furnished any person at such reasonable charge and under such reasonable limitations as the Commission shall prescribe.

VALIDITY OF CONTRACTS

SEC. 43. (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this Act or with any rule, regulation, or order thereunder shall be void.

(b) Every contract made in violation of any provision of this Act or of any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this Act, or any rule, regulation, or order thereunder, shall be voidable as regards (1) the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, or (2) the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

LIABILITY OF CONTROLLING PERSONS; PREVENTING COMPLIANCE WITH TITLE

SEC. 44. (a) It shall be unlawful for any person, directly or indirectly, to cause to be done any act or thing through or by means of any other person which it would be unlawful for such person to do under the provisions of this Act or any rule, regulation, or order thereunder.

(b) It shall be unlawful for any person without just cause to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, record, or account required to be made, filed, or kept under any provision of this Act or any rule, regulation, or order thereunder.

PENALTIES

SEC. 45. Any person who willfully violates any provision of this Act or of any rule, regulation, or order thereunder, or any person who willfully in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to this Act or the keeping of which is required pursuant to section 28(a) makes any untrue statement of a material fact or omits to state any material fact necessary in order to prevent the statements made therein from being materially misleading in the light of the circumstances under which they were made, shall upon conviction be fined not more than $10,000 or imprisoned not more than two years, or both; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no actual knowledge of such rule, regulation, or order.

EFFECT ON EXISTING LAW

SEC. 46. (a) Except where specific provision is made to the contrary, nothing in this Act shall affect (1) the jurisdiction of the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisors Act of 1940, over any person, security or transaction, or (2) the rights, obligations, duties, or liabilities of any person under such Acts.

(b) Nothing in this Act shall affect (1) the jurisdiction of any other commission, board, agency, or officer of the United States or any State or political subdivision of any State, over any person, security or transaction, insofar as such jurisdiction does not conflict with any provision of this Act or of any rule, regulation or order thereunder, or (2) the rights, obligations, duties, or liabilities of any person under State law, insofar as such law does not conflict with any provision of this Act or of any rule, regulation or order thereunder.

REPEALER

SEC. 47. Section 3(c)(9) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(9)) is repealed.

SEPARABILITY OF PROVISIONS

SEC. 48. If any provision of this Act or any provision incorporated in this Act by reference, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

EFFECTIVE DATE

SEC. 49. The provisions of this Act shall become effective upon _____.

By Mr. HARTKE:

S. 1051. A bill to amend the Social Security Act to eliminate the requirement that a recipient of disability insurance benefits under title II of such Act must wait for 24 months before becoming eligible for coverage under medicare. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, today, I am introducing a bill which would allow disability insurance beneficiaries to qualify for medicare as soon as they establish eligibility to receive disability insurance payments and without waiting the 2 years provided for in H.R. 1 as passed in the 92d Congress.

Mr. President, I am proud to say that I am among those in this Chamber who worked vigorously and steadfastly during the late fifties and into the sixties to create a national health insurance program in the social security system. Our efforts were finally rewarded in 1965 when Congress approved medicare for persons over 65. But medicare, as adopted, was only a partial recognition of the need I sought to satisfy.

Medicare offered hospital and medical protection to our elderly fellow citizens, but it did not offer this protection to disabled persons receiving benefit payments under the social security system. As a result, Mr. President, in Congress after Congress I have introduced a bill to authorize the inclusion of disability beneficiaries in medicare.

I was very pleased when, at last, Congress voted last year the inclusion of disability beneficiaries in medicare as a provision in H.R. 1. But the solution offering health protection to disability insurance beneficiaries through medicare in H.R. 1 was a delayed protection.

H.R. 1 provided that disability insurance beneficiaries may establish qualification for medicare only after they have been receiving disability insurance benefit payments for 2 years.

The Hartke bill would eliminate this unreasonable and unjustified 2-year waiting period. It would make it possible for a person establishing eligibility for disability insurance payments to establish, at the same time, eligibility for medicare.

My bill is most necessary legislation, Mr. President. To qualify for disability insurance a person must have an established record of disability that extends over a protracted period of time.

The nature of this qualifying disability is generally such that a great number of persons entering the disability insurance program have a need and a constantly repeating need for hospitalization, health care facilities, medical and paramedical personnel.

Disability insurance beneficiaries must exist on a most meager income. This income is certainly not enough to allow the achievement of a dignified, healthful standard of living, when the income

is used only to meet the basic living costs—food, clothing, and shelter. It surely does not allow any margin at all for hospital bills or doctors' bills.

I therefore urge my colleagues in the Senate to join with me on this bill, in order that medicare may be available to disability insurance beneficiaries when they become disability insurance beneficiaries, in order that they will not have to wait for 2 years for participation in the health care protection offered and available under medicare.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD following my remarks.

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

S. 1051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1811 of the Social Security Act is amended by striking out "who have been entitled for not less than 24 consecutive months" and inserting in lieu thereof "who are entitled".

(b) Section 226(b) of such Act is amended—

(1) in paragraph (2)(A), by striking out ", and has for 24 consecutive calendar months been entitled to,";

(2) in paragraph (2)(B), by striking out ", and has been for not less than 24 consecutive months"; and

(3) in the matter following paragraph (2), by striking out "the twenty-fifth consecutive month" and inserting in lieu thereof "the first month".

(c) Section 22 of the Railroad Retirement Act of 1937 is amended—

(1) in paragraph (1)—

(A) by striking out "not less than 24 consecutive months during each of which" and inserting in lieu thereof "for any month during which";

(B) by striking out "not less than 24 consecutive months under section 223 of the Social Security Act" and inserting in lieu thereof "any month under section 223 of the Social Security Act".

(2) in paragraph (2), by striking out "for not less than 24 consecutive months during each of which" and inserting in lieu thereof "for any month during which"; and

(3) in paragraph (3), by striking out, each place it appears therein, "for not less than 24 consecutive months" and inserting in lieu thereof "for any month".

SEC. 2. The amendments made by the first section of this Act shall be effective upon enactment of this Act, except that no individual shall, by reason of such amendments, become eligible to enroll under the insurance program established by title XVIII of the Social Security Act for any month prior to July 1973, or, if later, the month following the month in which this Act is enacted.

By Mr. HARTKE (for himself, Mr. BAYH, and Mr. GRAVEL):

S. 1052. A bill to establish a Consumer Savings Disclosure Act in order to provide for uniform and full disclosure of information with respect to the computation and payment of earnings on certain savings deposits. Referred to the Committee on Banking, Housing and Urban Affairs.

TRUTH IN SAVINGS ACT

Mr. HARTKE. Mr. President, today I am reintroducing on behalf of myself and Senators BAYH and GRAVEL legislation which would establish a simple and fair method of disclosing vital information on consumer deposits in savings institutions. This bill is similar to S. 1848 which I sponsored during the last Congress.

Americans place more than $40 billion of disposable income into savings each year. This is money saved for emergencies, for children's education, for a new home, and for many other purposes. Yet, few Americans realize the importance of the decision to place their money into a saving institution. Just as an individual shops for the best buy when purchasing a new car or a washing machine, so must he shop when opening a savings account.

Unfortunately, at the present time, the consumer does not have adequate information at his disposal before he opens an account. He is confronted by confusing claims in newspaper advertisements and a variety of technical information which is difficult to understand. According to a recent study of the American Banking Association, there may be more than 100 different methods of earnings computation in use today. They include LIFO, FIFO, low balance, day-of-deposit to day-of-withdrawal accounts, daily interest and grace days combined with the infinite possibilities of compounding which include semiannually, quarterly, daily, and continuously. While I do not suggest that the Federal Government impose uniformity in earnings calculation methods, I urge that the Congress enact legislation which will make it possible for the consumer to compare and choose the most advantageous opportunity for investing his money consistent with his needs and preferences.

Differences in earnings rates and methods of calculation are important to the average consumer. Mere differences in the method of calculating earnings can result in a monetary difference of as much as 180 percent over a 6-month period. In light of this, the consumer must have information at his command which makes it possible for him to make a rational judgment on the best institutions with which to place his funds.

One of the major sources for consumer confusion can be found in the use of such terms as "annual percentage rate" and "annnual percentage yield."

The term "annual percentage rate" means the nominal annual percentage rate used to compute earnings. Use of this term assists the consumer to understand the concept of rates as applied both to savings and credit. Credit and savings are mirror images of each other. The credit consumer borrows from the savings institution; the savings institution borrows from the consumer. The use of common terminology is, therefore, logical and desirable.

"Annual percentage yield," on the other hand, includes the resulting effect of the compounding of earnings. Whether earnings are compounded on a daily, monthly, quarterly, or semiannual basis will affect this annual percentage yield measurably.

My bill, therefore, makes it a requirement that each savings institution disclose to potential depositors its annual percentage rate, its annual percentage yield, the minimum length of time a deposit must remain on deposit to earn the periodic percentage rate and the method used to compute the balance to which this rate will be applied, the number of times within a year that interest is earned, and the dates on which earnings are payable. Each of these disclosures involves basic information which must be made available in order for the consumer to invest his money wisely.

The bill also requires the institutions to disclose their periodic percentage rate. It is this figure which is critical if a consumer is to understand the true potential earnings for his money. If the savings institution compounds earnings daily, then the periodic percentage rate will be a daily rate; if it compounds quarterly, the periodic rate will be a quarterly rate; and so on. Armed with this information, and with the knowledge of what earnings calculation method a savings institution uses, the consumer can make an informed choice from among several savings alternatives.

Some savings institutions make provision for grace days. Under this option, a consumer may place a deposit in the institution after the first of the month and yet that deposit will accumulate earnings as if it had been deposited on the first of the month. Other institutions impose a charge on excessive withdrawals from an account. My bill requires that this type of information must also be disclosed to the potential depositor.

In addition to making such basic information available to the consumer who has yet to open an account, my bill also requires that disclosures be made to existing depositors. At the present time, the consumer has very little information at his disposal to verify bank earnings calculations. He may send in his passbook to have earnings credited to his account, but how does he know that a mechanical or human error has not been made by the savings institution? In fact, most regulatory agencies rely on consumers to verify their own accounts and do not include such verification in their routine examinations. Since consumers must bear the responsibility of verification, they must have the facts this bill puts at their disposal.

To minimize the possibility for error and misunderstanding, my bill requires that savings institutions make annual disclosures to their depositors of the amount of earnings payable, the annual percentage rate, and the method used to calculate the amount of interest payable.

Most depositors are unaware of which method their bank is using and are, therefore, unable to verify the amount of earnings credited to their accounts.

At this point in my statement, Mr. President, I ask unanimous consent to have printed in the RECORD two exhibits to illustrate the importance of knowing by which method a savings institution calculates earnings. The information contained in the two exhibits comes from a master's thesis done by Miss Jackie M. Pinson, of the Department of Family Economics of Kansas State University. Working under the supervision of the head of her department, Prof. Richard

L. D. Morse, Miss Pinson was able to highlight the confusion confronting consumers. She developed her comparisons using the hypothetical account in exhibit A and a 6-percent annual interest rate.

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

EXHIBIT A

Date	Withdrawal	Deposit	Balance (without interest)
Jan. 1, 1970			$1,000
Jan. 10, 1970		$2,000	3,000
Feb. 6, 1970		1,000	4,000
Mar. 5, 1970	$1,000		3,000
Mar. 20, 1970	500		2,500
Mar. 30, 1970	500		2,000
Apr. 1, 1970			2,000
July 1, 1970			2,000

Although Miss Pinson applied forty different methods of interest calculation to this hypothetical account, Exhibit B makes use of only seven of these:

EXHIBIT B

System	Yield
Low Balance: Compounded and credited semiannually	$29.75
Low Balance: Compounded quarterly and credited semiannually	29.97
Low Balance: Compounded and credited quarterly	44.93
First in-first out applied to beginning balance: Compounded and credited quarterly	52.44
First in-first out applied to first deposits: Compounded and credited quarterly	53.93
Last in-first out: Compounded and credited quarterly	58.44
Day of deposit to day of withdrawal: Compounded and credited quarterly	75.30

Using these seven examples, there is a 150% difference in earnings over a six-month period. While a different pattern of deposits and withdrawals could alter these findings, these two exhibits make it clear that the policies of savings institutions do differ and that these differences are quite important to the consumer.

Mr. HARTKE. Mr. President, to supplement the disclosure requirements of my bill, basic requirements are also established for advertising. All advertisements relating to earnings payable on an individual savings deposit must state with equal prominence the annual percentage rate and the annual percentage yield as well as any minimum amount and time requirements. No advertisement will be permitted to include any indication of percentage rate or percentage yield which is based on a period in excess of 1 year or on the effect of any grace period. These requirements are in accord with existing Federal Reserve regulations.

Mr. President, the American public deserves to have all the facts needed to make a prudent choice among savings institutions. This bill puts such information at their disposal. It is based on the premise that the best protected consumer is the best informed consumer. In no way does it tell financial institutions what they should pay or how they should pay it. They are free to compete. It merely provides that financial institutions tell in clear and meaningful language what they are doing for the consumer.

I have been pleased to have the assistance of the banking industry in drafting this legislation. They have been anxious to eliminate any sources of misunderstanding for depositors. In the coming days, I look forward to working with a variety of organizations representing savings institutions in a common effort to strengthen my bill. What is most important is that we develop a national concern for the problems of consumer depositors, and then translate that concern into positive legislative action.

I ask unanimous consent that the text 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. 1052

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 "Truth in Savings Act."

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that economic stability would be enhanced and competition among savings institutions would be improved by the full disclosure of the terms and conditions under which earnings on savings deposits is payable. It is the purpose of this Act to require a meaningful disclosure of the terms and conditions of the payment of earnings on individual savings deposits so that the individual will be able to compare the various savings programs available to him.

DEFINITIONS; APPLICABILITY

SEC. 3. (a) For the purpose of this Act—

(1) "Board" means the Board of Governors of the Federal Reserve System;

(2) "individual" means a natural person;

(3) "individual savings deposit" means (a) any deposit or account in a savings institution which consists of funds deposited to the credit of one or more individuals or in which the entire beneficial interest is held by one or more individuals, and upon which earnings are payable, or (b) shares in a savings institution which are issued for the savings of its members and upon which earnings are payable, or (c) any evidence of indebtedness issued by a savings institution to one or more individuals or in which the entire beneficial interest is held by one or more individuals, and upon which earnings are payable. Such terms includes regular, notice, and time deposits, and share accounts, whether or not evidenced by an instrument;

(4) "earnings" means any amount accruing to or for the account of any individual savings deposit. Such term includes dividends and interest on any individual savings deposit;

(5) "payable", when used with respect to a certain date or period of time, means the date on which or the period of time after which an absolute right to earnings exists, regardless of whether the earnings are actually paid;

(6) "savings institution" means any person, firm, corporation, association, or organization which in the regular course of business receives and holds or issues individual savings deposits and pays earnings thereon;

(7) any reference to this Act, to any requirement imposed under this Act, or to any provision thereof includes reference to the regulations of the Board under this Act or the provision thereof in question.

(b) Nothing in this Act applies to any transaction involving—

(1) a deposit of funds if the principal purpose of that deposit is to secure or guarantee the performance of a contract or the conditions of a contract for the sale or use of goods, services, or property;

(2) interest payable on premiums, accumulated dividends, or amounts left on deposit under an insurance contract;

(3) any obligation issued by a Federal, State, or local government, or any agency, instrumentality, or authority thereof, except that the Board shall prescribe rules and regulations to require disclosures by any agency, instrumentality, or authority of the Federal Government.

DETERMINATION OF ANNUAL PERCENTAGE RATE, PERIODIC PERCENTAGE RATE, AND ANNUAL PERCENTAGE YIELD

SEC. 4. (a) Periodic percentage rate is the rate applied each period to the principal amount for that period to determine the amount of earnings for that period and may be referred to as the PPR. If the period is less than one day, for purposes of disclosure, the period shall be construed to be either one day or the actual time interval after which earnings are payable, whichever is less, and the rate to be diclosed in lieu of the true periodic percentage rate shall be the factor used to determine the amount of earnings for a one day period.

(b) Annual percentage rate is the periodic percentage rate multiplied by the number of periods in a calendar year of 365 days for all years including leap year, and may be referred to as the APR.

(c) Annual percentage yield is the amount of earnings which accrue in one year to a principal amount of $100 as the result of the successive applications of the periodic percentage rate at the end of each period to the sum of the principle amount plus any earnings theretofore credited and not withdrawn during that year, and may be referred to as the APY.

REGULATIONS

SEC. 5. (a) The Board shall prescribe regulations to carry out the purposes of this Act. These regulations shall provide for clear, concise, and uniform disclosures of information required by this Act, and may contain such classifications, adjustments, and exceptions as the Board determines are necessary or proper to effectuate the purposes of this Act. All disclosures required by this Act shall be made only in terms as defined or used in this Act, as defined or used in the Truth in Lending Act or in regulations prescribed under that Act, or as such terms are further defined by the regulations of the Board. The Board may authorize the use of tables or charts for the disclosure of information required by this Act.

(b) The Board may prescribe such other rules and regulations as it determines to be necessary or appropriate to carry out the purposes of this Act.

GENERAL REQUIREMENTS OF DISCLOSURE

SEC. 6. (a) Each savings institution shall make available in writing to any individual upon request, and at the time he initially places funds in an individual savings deposit in such savings institution the following information with respect to individual savings deposits—

(1) The annual percentage rate;

(2) the minimum length of time a deposit must remain on deposit so that earnings are payable at that percentage rate;

(3) the annual percentage yield;

(4) the periodic percentage rate and the method used to determine the balance to which this rate will be applied;

(5) the number of times each year earnings are compounded;

(6) the dates on which earnings are payable;

(7) any charges initially or periodically made against any deposits;

(8) any terms or conditions which increase or reduce the rate of earnings payable as disclosed under items (1) or (3); and

(9) any restrictions and the amount or method of determining the amount of penalties or charges imposed on the use of funds in any deposit.

(b) Each savings institution shall disclose annually and at the time any earnings report is made to an individual in person, or by mailing to his last known address, with respect to his individual savings deposit—

(1) the amount of earnings paid;

(2) the annual percentage rate;

(3) the periodic percentage rate;

(4) the principal balance to which the periodic percentage rate was applied, and the method by which that balance was determined;

(5) any charges made against the account during the period covered for purposes of computing the payment of earnings and making the report; and

(6) any other terms or conditions which increased or reduced the earnings payable under conditions as disclosed under items (1) or (3) of subsection (a).

(c) The Board may, by regulation, authorize or publish tables of periodic factors which reflect compounding, and such other information as it determines to be necessary or appropriate in order to facilitate the individual's ability to verify the computation of earnings payable on any individual savings deposit.

(d) Not less than ten days before a savings institution adopts any change with respect to any item of information required to be disclosed under this section, that institution shall notify each individual depositor of each such change, unless such change is directed by regulatory authority.

DISCLOSURES IN ADVERTISING

SEC. 7. (a) Every advertisement relating to the earnings payable on an individual savings deposit shall state in print of equal prominence the annual percentage rate and the annual percentage yield. If that rate is payable only on a deposit which meets certain minimum time or amount requirements. those requirements shall be clearly and conspicuously stated.

(b) No such advertisement, announcement, or solicitation shall—

(1) include any indication of any percentage rate or percentage yield based on a period in excess of one year or on the effect of any grace period; or

(2) make use of the term "profit" in referring to earnings payable on such deposits.

ADMINISTRATIVE ENFORCEMENT

SEC. 8. (a) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any insured Credit Union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of the law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(d) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

CIVIL LIABILITY

SEC. 9. (a) Except as otherwise provided in this section, any savings institution which fails in connection with any transaction subject to this Act to disclose to any individual any information required under this Act to be disclosed to that individual is liable to that individual for the damage sustained which—

(1) shall not be less than $100 nor greater than $1,000; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

(b) An institution has no liability under this section if within fifteen days after discovering an error, or upon receipt of written notice of an error and prior to the bringing of an action under this section the institution notifies the individual concerned of the error and makes whatever adjustments are appropriate and necessary.

(c) An institution may not be held liable in any action brought under this section for a violation of this Act if the institution shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(d) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION

SEC. 10. Whoever willfully and knowingly (1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this Act, or (2) otherwise fails to comply with any requirement imposed under this Act shall be fined not more than $5,000.

VIEWS OF OTHER AGENCIES

SEC. 11. In the exercise of its functions under this Act, the Board may obtain upon request the views of any other Federal or State agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of savings institutions subject to this Act.

EFFECT ON OTHER LAWS

SEC. 12. (a) This Act does not annul, alter, or affect, or exempt any savings institution from complying with the laws of any State relating to the disclosure of information in connection with individual savings deposits, except to the extent that those laws are inconsistent with the provisions of this Act or regulations promulgated under this Act, and then only to the extent of the inconsistency.

(b) This Act does not otherwise annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State, including, but not limited to, laws relating to the types, amounts or rates of earnings, or any element or elements of earnings, permissible under such laws in connection with individual savings deposits, nor does this Act extend the applicability of those laws to any class of persons or transactions to which they would not otherwise apply.

(c) Except as specified in section 10, this Act and the regulations promulgated under this Act do not affect the validity or enforceability of any contract or obligation under State or Federal law.

REPORT TO CONGRESS

SEC. 13. The Board shall report to the Congress each year concerning the administration of its functions under this Act, and shall include in its report an assessment of the extent to which compliance with the requirements under this Act is being achieved and such recommendations as it deems necessary or appropriate.

SEPARABILITY

SEC. 14. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid not be affected thereby.

By Mr. WILLIAMS:

S. 1054. A bill to amend the Internal Revenue Code of 1954 so as to make more current the amounts prescribed in determining the amount of income to which the retirement income credit under such code is allowable. Referred to the Committee on Finance.

UPDATING THE RETIREMENT INCOME CREDIT

Mr. WILLIAMS. Mr. President, I introduce, for appropriate reference, a bill to update the retirement income credit for retired teachers, policemen, firemen, and other Government annuitants.

This proposal is identical to S. 1506, which I introduced during the last Congress. That measure was adopted in modified form as an amendment to the 1972 social security legislation.

However, no final action was taken because a conference committee could not resolve the differences in the House- and Senate-passed social security bills on this issue.

The retiremnt income credit was originally enacted in 1954 to provide Government pensioners with comparable tax relief as social security beneficiaries.

Social security benefits are, of course, exempt from Federal income tax. Government annuitants or persons with little or no social security benefits receive comparable tax treatment by claiming a 15-percent credit on their qualifying retirement income pensions, annuities, rents, interest, and dividends.

Today the maximum amount for computing the credit is $1,524 for a single person and $2,286 for a couple. This maximum base must be reduced though by the amount of, first, tax exempt pensions, such as social security and railroad retirement and, second, earned income, depending upon the individual's age and the extent of his earnings.

But the retirement income credit no longer provides equivalent tax relief because it has not been modernized for 11 long years. During this time there have been four badly needed social security raises, which I have strongly supported.

But we must not forget our Government pensioners or other individuals, with little or no social security coverage. They must not become second-class citizens under our tax system.

For far too long a time, their needs have been overlooked or ignored. For too long, they have had to struggle with an outdated tax relief measure.

Equity in our tax system presents a compelling argument to place these taxpayers on an equal footing with social security beneficiaries.

The bill that I introduce today would help to correct this longstanding inequity.

First, it would raise the maximum amount for computing the 15-percent credit from $1,524 to $3,214 for a single person, and from $2,286 to $4,821 for an elderly couple. These amounts would be consistent with the maximum benefits now payable under social security.

Two years ago significant improvements were made in simplifying the retirement income credit schedule. As a result of hearings and a report issued by the Committee on Aging, the number of computations and schedule transfers on this year's tax form have been reduced substantially. Moreover, elderly taxpayers can elect to have the IRS compute their credit, provided they list the amount of their qualifying retirement income, tax-exempt pensions, and earned income.

If it is possible to make these procedural changes to protect the aged from overpaying their taxes, then I believe substantive changes can also be made in the law to provide fair and equitable tax treatment for these overburdened taxpayers.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 37(d) of the Internal Revenue Code of 1954 (relating to limitation on retirement income for purposes of credit against tax) is amended—

(1) in the matter preceding paragraph (1), by striking out "$1,524" and inserting in lieu thereof "$3,214";

(2) in paragraph (2)(A), by striking out "$900" and inserting in lieu thereof "$1,050"; and

(3) in paragraph (2)(B), by striking out "the sum of (i) one-half of the amount of earned income received by such individual in the taxable year in excess of $1,200 but not in excess of $1,700, and (ii) the amount of earned income so received in excess of $1,700" and inserting in lieu thereof "one-half of the amount of earned income received by such individual in the taxable year in excess of $2,100".

(b) Section 37(i)(2)(B) of such Code (relating to special rules for certain married couples in application of retirement income credit provisions) is amended by striking out "$2,286" and inserting in lieu thereof "$4,821".

SEC. 2. The amendments made by the first section of this Act shall be effective in the case of taxable years ending after December 31, 1972.

By Mr. TUNNEY (for himself and Mr. MAGNUSON):

S. 1055. A bill to authorize a program of research and development of alternative propulsion systems for automotive vehicles in commerce. Referred to the Committee on Commerce.

AUTOMOTIVE RESEARCH AND DEVELOPMENT ACT OF 1973

Mr. TUNNEY. Mr. President, I am introducing today on behalf of the Senator from Washington (Mr. MAGNUSON) and myself the Automotive Research and Development Act of 1973.

Tens of millions of American motorists are about to get it in the neck unless Congress acts with foresight and determination to provide clean air at a price the consumer can afford.

This means Americans want to protect their health. But they do not want to be stuck with costly, inefficient, and unreliable automobiles and transit systems simply, because the Government is unwilling to act with the same inventive vigor with which it put a handful of men on the moon.

The choice is not between banning a majority of auto traffic, as the Environmental Protection Agency would do in the Los Angeles area, or trying to add further gimmicks to the present internal combustion engine.

The real choice lies in the development of a smogless alternative to the present internal combustion engine.

Some smogless prototypes already are available, and technology must now develop models that can be mass-produced economically and that will be durable and free of repeated repair costs.

One of the major difficulties with the internal combustion engine is that the more you tinker with it by adding catalytic converters, the more you increase its cost, its consumption of gasoline, and the probability that it will break down.

So far, the emission control devices that Detroit would add to the internal combustion engine will, by 1976, add an estimated $275 to $500 to the cost of an auto, and yet, probably will wear out after about 20,000 miles. Additionally, it is estimated that such systems will eke a bare 8 or 9 miles to the gallon.

Detroit, by sticking with the present internal combustion engine, has been trying to saddle a dinosaur, and the American people would be stomped with an annual cost of $23 billion. That is what the National Academy of Sciences estimates catalytic converters and other gimmicks on the internal combustion engine soon will be costing. Such a cost would be an outrage when an alternative engine could be developed for a fraction of that cost, and provide environmentally clean transportation at a price middle- and low-income wage earners could afford.

Frankly, I believe that the Nation must come up with a coordinated transit system; this includes an alternative to our present internal combustion engine; improved mass transit; reasonable penalties for those who drive smoggy, energy-inefficient vehicles; and the use of pollution-free runabouts for shopping and other short-distance driving.

The purpose, of course, is to assure that the average man and woman can get to where he or she wants to go at the least possible cost, with the least governmental interference, and in an atmosphere that is pure and healthful.

Already the air is foul in southern California, and it has been predicted that by 1977, the levels of hydrocarbon emissions in the Los Angeles area will reach 691 tons per day, approximately 425 percent higher than the maximum smog level allowed under the Clean Air Act. Much of this intolerable amount will be generated by automobiles. We can not afford to wait any longer to seek alternatives to the present ICE, unless we are willing to multiply the 500 deaths and over $25 million in crop damage already attributed to smog every year in Los Angeles.

On a national scale, if we can successfully meet the standards of the Clean Air Act, the savings in pollution costs could be as much as $46.3 billion in the decade between 1976 and 1985. But if we are unsuccessful, the EPA proposals for gas rationing will surely be extended to other areas. Already, gasoline rationing is being considered by the EPA not only for Los Angeles, but for some 27 other areas in 18 States, including the metropolitan areas of New York, Phoenix, Denver, Dallas-Fort Worth, Pittsburgh, and Philadelphia.

LEGISLATION

For these reasons, the Senator from Washington (Mr. MAGNUSON) and I are introducing today the "Automotive Research and Development Act of 1973." This legislation mandates an immediate and intensive national research and development program to produce, within 3 years, a motor vehicle engine system that is clean, quiet, energy-efficient, safe, and suited to our existing patterns of life.

The legislation would mobilize and consolidate national scientific resources in a down-to-earth Apollo program for moving men through our cities instead of through space. Of course, the effort would be far less costly than the billions we spent for space, but it would create the same sense of national priority and commitment as the Apollo program.

This program is to be carried out by the Low-Emission Vehicle Certification Board. The Board, an interagency group established under the Clean Air Act, is composed of representatives from the Environmental Protection Agency, the Department of Transportation, the Council on Environmental Quality, and the General Services Administration. The different areas of expertise of these Board members would assure a wide range of viewpoints and consideration of all important factors.

Furthermore, under section 2 of the

act, the Board is authorized to develop vehicles which not only will comply with the standards of the clean air, but also will comply with whatever future emission standards Congress enacts to protect public health and welfare in high-population-density areas of the United States.

Not only must the new low-emission engines be clean, but they must also be economical to produce. Further, they must be capable of being installed in new cars on the assembly line and in older models at the neighborhood garage.

The Board, among its other requirements, would be directed to study, over a period of 12 months, the economic impact of the new engine and recommend means for ameliorating the expense to the average car owner. Some means of tax deduction or low-interest loan possibly could be developed for persons who replace their old engine with a smogless one. Such a study might conclude that the cost of converting all 100 million autos on American highways from internal combustion engines by 1976 would break the backs financially of too many Americans. Consequently, it could recommend a waiver of clean air standards for these cars for a short period.

To obviate that possibility, however, we must move promptly to develop mass transportation systems, incentives to carpools and other efforts that can reduce auto traffic while still enabling people to get where they want to go.

Under my legislation, the Board is given broad powers to hire staff, to accelerate and conduct research, to establish and operate necessary facilities and to provide grants to public, private, or nonprofit institutions.

Estimates vary on the cost of the program. Exports have estimated that the cost to be as high as $900 million. Others suggest the cost would be no more than $100 million. Due to these widely divergent estimates the hearings should explore the appropriate level of funding; $900 million, which in my mind would be the upper limit of such funding, amounts to less than one-twentieth the yearly cost the National Academy of Sciences says will fall on the backs of car owners from the duel-catalyst system.

I also feel that the hearings should consider the full range of alternative sources for funding, with special emphasis on existing sources of revenue. These would include: First, a 1-year small registration fee on all motor vehicles to be collected by the States and transferred to a research and development fund; second, a specific appropriation out of general revenues equivalent to the amount which would be generated by such a registration fee; third, a transfer of funds from the highway trust fund; fourth, an appropriate increase in gasoline taxes.

Crucial to any sensible solution to our transit and pollution problems is the necessity of blasting into the highway fund. It no longer should be used exclusively to slab our cities and counties beneath a labyrinth of freeways, but should be used to develop mass transit, and hopefully to develop other alternatives to our dependence on the internal combustion engine.

NEED

To date, the auto industry's use of the ICE, which must relay on the intricacies of catalytic converters to control emissions, is clearly unsatisfactory. Recently, the National Academy of Sciences Committee on Auto Emissions bluntly warned that—

> Mass production of what are presently deemed to be relatively fragile, catalyst-dependent systems of unproved reliability in actual service, may engender an episode of considerable national turmoil.

The turmoil suggests the potential public dissatisfaction with a car with the disadvantages associated with an ICE with a catalytic converter. The NAS report further stated that the catalyst-dependent systems now being emphasized by the major manufacturers are the most disadvantageous with respect to first cost, fuel economy, maintainability, and durability.

Furthermore, the New York Times editorialized on January 20:

> Added costs to the consumer are likely to be appreciable. New equipment is expected to add from $275–500 to the price of a car, and the catalytic converter may ultimately reduce fuel efficiency to a ratio lower than nine miles to a gallon . . . There is surely something unsatisfactory about a device that reduces efficiency while increasing costs.
>
> The converter requires so-called noble metals-platinum and palladium, which are to be found in sufficient quantity only in the Soviet Union and South Africa. Chrysler, smallest of the Big Three, alone expects to need 200,000 troy ounces of the metals annually, at a price ranging from $130 to $160 an ounce. On a long-term basis, such payments by the industry as a whole would presumably affect this country's trade balance, not to mention the diplomatic disadvantages inherent in commercial dependence.

As early as 1969, a staff report of the Senate Commerce Committee found that there were alternatives to the ICE that were satisfactory in terms of performance and far superior in terms of emission control. The report went on to note, however, that introduction of such a vehicle would need strong governmental action in the face of the "inertia" and even opposition of the petroleum and auto industries.

The Clean Air Act of 1970, introduced shortly thereafter, set up a framework by which it was hoped that alternatives to the ICE could be explored. Among its many other provisions, section 104 of the act gave the EPA the power to develop alternative engine systems while section 212 of the act set up a certification board which was empowered to replace Government vehicles with "low emission" vehicles developed by private industry. It was hoped that by providing an assured governmental market, that private industry would be stimulated to develop alternatives to the ICE.

Unfortunately, these programs have proven to be stillborn. In the years since enactment of the act, Detroit has produced some 30 million cars, proscratinating on developing an alternative engine while continuing to profit from the internal combustion engine.

While air pollution has been costing this Nation $16 billion a year in deaths, serious illness, and economic damage, the Federal Government, under section 104 of the act, has been spending a mere $10 million to develop a low-emission vehicle. Furthermore, only one car has been presented to the EPA for certification under section 212, and it has yet to be approved.

Simultaneously, the automobile manufacturers have maintained that, even with the expensive add-on programs, they still will be unable to meet the emissions standards of the act. Although the NAS feels the industry can meet the standards, it goes on to recommend that the 1975–76 standards be postponed to allow the manufacturers to "reconsider" their present approach, largely because the continued use of the ICE with a catalytic converter will deplete our energy resources.

Approximately 25 percent of all energy used in this country is attributable to transportation, and the automobile is responsible, by far, for the largest part of this consumption. The National Petroleum Council's Committee on the U.S. Energy Outlook reports that the demand for gasoline by 1985 will be 9.2 million barrels or 404,800,000 gallons per day, a growth of 3.4 million barrels above demand in 1970, a 59-percent increase. This increase is not surprising, as the committee projects that motor vehicle registration will be 178 million by 1985 as compared to a registration of about 100 million in 1970. Predictions of serious increases in energy demand are echoed by environmentalists and scientists.

In short, the choice of the auto manufacturers in adopting an "add-on" approach will create more problems than it will solve. We cannot allow the manufacturers to exert sole control over a decisionmaking process with such important national implications. The Government just as it has in cancer research, must spearhead the research and development program.

Our alternatives are clear. If we fail to act decisively, we will force this Nation to make a Hobson's choice between public health and private transportation; and in southern California, and similar areas, the choice will be an even starker one between environmental and economic disaster.

While this problem is immediate and critical in southern California, it is part of a spreading epidemic of air pollution. If we act today, we can meet the legal requirements for air quality and we can do it without resorting to the unnecessarily harsh and probably unenforceable gas rationing schemes so far proposed. But we must meet the problem with total and coordinated action.

My proposal, I believe, will go far in meeting the future private transportation needs of this country. It is, as I have noted earlier, only one part of a coordinated transit system. Additionally, I have joined Senator MUSKIE in introducing critical legislation to answer our needs for adequate public mass transportation and to require continuing inspection of existing emission-control systems. These steps are clearly necessary if this country is once and for all to have a balanced and environmentally sound and safe transportation system.

Mr. President, I ask unanimous con-

sent that the text of the bill be printed in the RECORD.

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

S. 1055

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 Automotive Transport Research and Development Act of 1973."

SEC. 2. The Low-emission Vehicle Certification Board (hereinafter referred to as "the Board"), as defined in section 212 of the Clean Air Act (42 U.S.C. 1857–6e), is authorized and directed to develop, within three years after the date of enactment of this Act, a low-emission vehicle engine which—

(1) complies with any emission standards promulgated under any provision of the Clean Air Act;

(2) will comply with any further emission standards enacted by Congress to protect public health and welfare in high population-density areas of the United States;

(3) is energy-efficient, clean, quiet, safe, and economical to produce; and

(4) could be placed into (A) all or substantially all new motor vehicles to be introduced into commerce; and

(B) all or substantially all existing motor vehicles in commerce in lieu of their original engines.

SEC. 3. In order to develop such a low-emission vehicle, the Board is authorized and directed to—

(1) provide Federal grants to, or make contracts with, any public or private agency, institution, organization, corporation, or individual for payment of—

(A) the cost of programs to develop economical, commercially feasible low-emission alternatives to the internal combustion engine currently mass-produced and used in the United States;

(B) the cost to purchase vehicles and vehicle engines, or portions thereof, for research, development and testing purposes; and

(C) the cost of any other activity which is necessary or appropriate;

without regard to sections 3648 and 3709 of the Revised Statutes (3 U.S.C. 529 and 41 U.S.C. 5);

(2) conduct and accelerate research programs;

(3) establish and operate research facilities and test sites in order to carry out any research, testing, development, and programming;

(4) utilize, as may be necessary, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

(5) appoint and fix the compensation of such personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule;

(6) procure, as may be necessary, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule;

(7) carry out any other activity which it may deem ncessary or oppropriate.

SEC. 4. The Board shall submit reports to Congress describing actions taken pursuant to sections 2 and 3 of this Act in order to develop a low-mission vehicle engine. Such reports shall be submitted to Congress at six-month intervals beginning six months after the date of enactment of this Act.

SEC. 5. The Board is further authorized and directed to study the economic impact of placing a low-emission vehicle engine as described in section 2 of this Act into all or substantially all new and existing motor vehicles. This study shall include estimates of the cost of low-emission engines to individuals purchasing new vehicles containing such low-emission engine and to individuals replacing existing vehicle engines with such a low-emission engine; and this study shall further include a comprehensive study of alternative methods for lessening the costs to such individuals. The Board shall submit a final report containing the results of this study to Congress within twelve months of the date of enactment of this Act.

SEC. 6. The Board shall receive and study any recommendation made to it, in writing, by any interested person, which relates to the development of a low-emission vehicle engine as described in section 2 of this Act.

SEC. 7. There is authorized to be appropriated funds not to exceed ———— dollars to carry out the purposes of this Act.

SEC. 8. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

By Mr. FANNIN (for himself, Mr. HANSEN, Mr. MCCLURE, Mr. JOHNSTON, Mr. STEVENS, Mr. GRAVEL, and Mr. BARTLETT):

S. 1056. A bill to amend the Mineral Leasing Act of 1920. Referred to the Committee on Interior and Insular Affairs.

Mr. FANNIN. Mr. President, today, Senators HANSEN, MCCLURE, STEVENS, JOHNSTON, GRAVEL, BARTLETT, and I join in introducing a bill which will cure the defects in the statute governing rights-of-way for pipelines across the public lands as delineated in the recent opinion of the court of appeals for the District of Columbia Circuit in the Alaska pipeline case.

The shortcomings of the Mineral Leasing Act of 1920 in this regard apply not only to the Alaska pipeline but to many pipelines across the public lands throughout the West.

If we are to attack the energy problems of the United States the amendment of the 1920 act in this regard must be one of our first concerns.

By Mr. WILLIAMS:

S.J. Res. 70. A joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day." Referred to the Committee on the Judiciary.

NATIONAL ARBOR DAY RESOLUTION

Mr. WILLIAMS. Mr. President, today I am introducing a resolution that would authorize the President to proclaim the last Friday of each April as "National Arbor Day."

As we, in the United States, become increasingly aware of the importance of our natural resources, the need for preserving these resources is becoming a major national concern. On all levels of government, citizens have taken steps toward initiating effective programs that will, hopefully, in the very near future improve and protect our ecology.

During the 92d Congress, I was pleased to have introduced the Senate version of the public law that proclaimed the last Friday in April 1972, as "National Arbor Day." That special observance marked the 100th Anniversary of Arbor Day and was celebrated by a tree-planting ceremony on the Capitol grounds, in which I was honored to take part.

I believe the designation of 1 day each year as "National Arbor Day" would be a fitting reminder to all Americans of the importance of our environment. Such a national observance day would provide for every citizen an opportunity to demonstrate his concern for our ecology and participate in its preservation. The planting of a tree on "National Arbor Day" would uniquely symbolize the truth that the earth belongs to every generation, not just ours.

Therefore, Mr. President, I am hopeful that Congress will again recognize the importance of Arbor Day, and authorize an annual observance of "National Arbor Day."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 7

At the requests of Mr. CRANSTON and Mr. RANDOLPH, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 7, the Rehabilitation Act of 1973.

At the request of Mr. CRANSTON, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 7, supra.

S. 40

At the request of Mr. BROCK, the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND), were added as cosponsors of S. 40, a bill to improve the implement procedures for fiscal controls in the U.S. Government, and for other purposes.

S. 186

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 186, a bill to provide for the awarding of a Medal of Honor for Firemen.

S. 187

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 187, a bill to establish the President's Award for Distinguished Law Enforcement Service.

S. 188

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 188, a bill to amend section 6303 of title 5, United States Code.

S. 191

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 191, a bill to amend title 5, United States Code, to provide additional cost-of-living adjustments.

S. 195

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 195, a

bill to exempt certain State-owned passenger vessels from the requirement of paying for overtime services of customs officers and employees.

S. 372

At his own request, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 372, the Federal Election Campaign Act of 1973.

S. 517

At the request of Mr. YOUNG, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 517, a bill to extend titles I, II, III, IV, V, VI, and VII of the Agricultural Act of 1970 for 5 years.

S. 519

At the request of Mr. BEALL (for Mr. SCHWEIKER), the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 519, the Veterans Drug and Alcohol Abuse Rehabilitation Act.

S. 548

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. HARTKE) and the Senator from Kentucky (Mr. COOK) were added as cosponsors of S. 548, a bill to provide price support for milk at not less than 85 percent of the parity price therefor.

S. 653

At the request of Mr. BELLMON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 653, a bill to prohibit the impoundment of funds from the Highway Trust Fund.

S. 793

At the request of Mr. CRANSTON, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 793, a bill to provide a full employment strategy for the Nation.

S. 798

At the request of Mr. BURDICK, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 798, a bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes.

S. 826

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 826, a bill to authorize the issuance of U.S. conservation savings bonds.

S. 841, S. 887, AND S. 888

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that the name of the Senator from New Hampshire (Mr. COTTON) be added as a cosponsor of the following bills:

S. 841. A bill to implement the International Convention on civil liability for oil pollution damage and the International Convention on the establishment of an international fund for compensation for oil pollution damage;

S. 887. A bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory and depredating animals; to establish a program of research concerning the control and conservation of predatory and depredatory animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes; and

S. 888. A bill to be known as the Toxic Substances Control Act of 1972.

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

S. 867 AND S. 868

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 867, the Equal Credit Opportunity Act, and S. 868, a bill to provide computation of social security benefits based on combined earnings of married couples.

S. 870

At the request of Mr. EAGLETON, the Senator from Missouri (Mr. SYMINGTON) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 870, the News Source Protection Act of 1973.

S. 871

Mr. COTTON. Mr. President, I ask unanimous consent that the name of the junior Senator from North Dakota (Mr. BURDICK) be added as a cosponsor of S. 871, a bill to correct certain inequities in the crediting of National Guard technician service in connection with Civil Service retirement. I am most appreciative of the support of Senator BURDICK, who is chairman of the subcommittee of the Committee on Post Office and Civil Service to which this bill has been referred. Last session, with Senator BURDICK's support, this bill was reported favorably and passed the Senate, but the House failed to act upon it before the adjournment of the Congress. I am most happy that Senator BURDICK has again indicated his interest in this measure, and I am confident that proceeding with his usual vigor, we shall get early consideration by the committee in the Senate so that there will be ample time for the House to act to secure just consideration for the 40,000 technicians who are so essential to our National Guard and who are now being discriminated against in the matter of retirement.

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

S. 902

At the request of Mr. STEVENS, the Senator from Hawaii (Mr. INOUYE), was added as a cosponsor of S. 902, a bill to amend section 607(k)(8) of the Merchant Marine Act of 1936.

S. 905

At the request of Mr. STEVENSON, the Senator from Vermont (Mr. STAFFORD) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 905, the Congressional Budgetary Review Reform Act.

S. 907

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 907, a bill to authorize the appropriation of $150,000 to assist in financing the Arctic winter games to be held in the State of Alaska.

S. 950

At the request of Mr. NELSON, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 950, a bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry.

S. 970

At the request of Mr. STEVENS, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 970, a bill to authorize construction of the trans-Alaska pipeline.

SENATE JOINT RESOLUTION 11

At the request of Mr. HOLLINGS, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of Senate Joint Resolution 11, to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973.

SENATE JOINT RESOLUTION 56

At the request of Mr. CRANSTON, the Senator from Alaska (Mr. GRAVEL) and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of Senate Joint Resolution 56, a joint resolution to authorize the President to proclaim the week containing February 21 and 14 as Afro-American History Week.

SENATE JOINT RESOLUTION 61

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Joint Resolution 61, a joint resolution authorizing and requesting the President to proclaim April 1973 as "National Check Your Vehicle Emissions Month."

SENATE RESOLUTION 72—SUBMISSION OF A RESOLUTION RELATING TO THE FINANCIAL PROBLEMS OF THE NATION'S RAILROADS

(Referred to the Committee on Commerce.)

Mr. McGOVERN submitted the following resolution:

S. RES. 72

Whereas, the nation has seen the decline in number and frequency of its passenger trains and an increasing number of applications for abandonment of lines which carry freight; and

Whereas, one major railroad has suggested that the federal government take over its stock and operation; and

Whereas, several major railroads now face bankruptcy; and

Whereas, the railroads fill a passenger and freight need which can be filled in no other way; and

Whereas, there has been no deep investigation into the causes and cures of this industry's illness but rather a series of proposals for relief of specific difficulties;

Resolved, That the Commitee on Commerce or any subcommittee thereof, shall, under section 134 (a) and 136 of the Legislative Reorganization Act, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, make a complete and full study and investigation for the purpose of determining—

(1) the reasons for the current financial problems of the Nation's railroads, particularly in certain regions;

(2) the feasibility of a plan under which at the request of a railroad the Federal government would purchase the railroad's right-of-way and appurtenant structures and devices except rolling stock used therewith and

thereafter the railroad would pay for the use of such right-of-way on a revenue mile or other appropriate basis;

(3) whether the Federal Government should undertake research for, and development of, new and improved railroad locomotives and cars;

(4) whether the Federal Government should assist the railroads in providing a reserve pool of freight and specialty cars and other equipment for use during periods of unusually high demand; and

(5) such other matters as may be relevant to solving such financial problems.

Section 2.

(1) The Committee shall report to the Senate within 12 months the results of its study and investigation, together with its recommendations for any necessary legislation.

(2) The Committee on Commerce is empowered to expend such funds from the contingency fund of the Senate as are necessary for office space and supplies, hiring of staff, payment of expenses of witnesses and all other costs in connection with its study.

STUDY OF RAILROAD NEEDS

Mr. McGOVERN. Mr. President, since the end of World War II, concurrent with the increase of additional means of transportation—trucks, buses, and jet aircraft—repeated attempts have been made to solve the problems which beset the Nation's railroads. More than a quarter of a century should have been long enough, perhaps not to achieve the ultimate solution, but certainly to make some progress. Instead, the railroads have regressed.

As America's population moved westward in the last century, railroads were granted huge subsidies in the form of land grants to help finance their construction, operation, and maintenance. Towns grew up along the rights-of-way and farmers frequently measured the value of their farms by their distance from the railroad.

The country ended up with a vast network of track which serviced a great many of even the smaller towns. Others became collecting points for milk, grain and for all farm products. Passenger service was equally common. The wail of the train approaching a crossing or a station and the life of the railroad man entered the folk lore of the Nation.

Viewing the roads' later difficulties in cold economic terms, perhaps we should have given up, stopped patching a worn piece of goods, and allowed them where they were not economic to disappear. Certainly the railroad industry has made line abandonment one of its major tools to cut costs. Of the 227,000 miles of track in 1944, 22,000 have disappeared. Penn Central is advocating the abandonment of 5,000 more and in my own State of South Dakota there are two separate attempts to abandon track involving about 260 miles.

Economic consideration alone must not be allowed to prevail. A line's contribution to a railroad's profits should not be the only test by which to justify its continued existence. Railroads meet the very specific need of mass transportation at comparatively low cost with low pollution, the latter accomplished through a lesser degree of emissions of harmful materials. As we begin better to understand the effects of pollution and its implications for the future, we must look to those means of transportation which reduce rather than add to it.

But today, large diesel trucks increasingly carry the Nation's freight on the highways. Passenger traffic on trains, despite its advantages, is almost an impossibility even between some major points in the country. The plane, bus, or private car must be used.

In recent years, as railroad service declined and profits fell, there have been a number of attempts to aid the industry. There have been proposals for a moratorium on track abandonment. The bankrupt Penn Central was aided. Amtrak was created—1972 deficit of $147 million, projected to be $130 million in 1973. A bill providing for $3 billion in loan guarantees was introduced to help lines purchase freight cars. Legislation was passed to aid lines in the aftermath of Hurricane Agnes, and a Surface Transportation Act with another $3 billion in loan guarantees was introduced but not passed.

However, these measures have been unorganized and uncoordinated. At no time has there been any study to do anything more than patchwork. There has been none to determine the underlying causes of railroad difficulties.

In April of last year, in a newsletter to South Dakota, I suggested that the Federal Government consider an assumption by the Government of the responsbility of ownership and maintenance of roadbed, bridges, and all structures related to railroading, including the signal system. I recommended the railroads be operated in much the same way as highways and airports. I recommended the creation of a working pool of freight cars and a program of research and development to improve all rolling stock including engines.

Recently, the Penn Central Railroad, in outlining its need for $1.6 billion of which it can itself obtain only $1 billion, has made this suggestion.

I do not propose such a plan be adopted. I do propose that the Committee on Commerce investigate railroad problems with an eye to assumption as outlined above, to look into the trust fund concept of support with private operators paying a fee per revenue mile and to report back to the Senate within 12 months.

SENATE RESOLUTION 73—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A HISTORY OF THE COMMITTEE ON FINANCE AS A SENATE DOCUMENT

(Referred to the Committee on Rules and Administration.)

Mr. LONG submitted the following resolution:

S. RES. 73

Resolved, that a compilation of materials relating to the history of the Committee on Finance be printed, with illustrations, as a Senate document, and that there be printed four thousand additional copies of such document for the use of that committee.

EXTENSION OF ECONOMIC STABILIZATION ACT—AMENDMENT

AMENDMENT NO. 22

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. CASE (for himself, Mr. JAVITS, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

ADDITIONAL HEARINGS OF SUBCOMMITTEE ON SECURITIES

Mr. WILLIAMS. Mr. President, I should like to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold 1 additional day of hearings on S. 470 and S. 488. S. 470 which I introduced with Senators BENNETT and TOWER deals with membership on national securities exchanges, the use of brokerage commissions to pay for securities research, the sale of management companies which have advisory contracts with mutual funds, and related matters. S. 488, introduced by Senator SPARKMAN, deals with membership on national securities exchanges and the elimination of fixed commission rates.

The hearings will be held in room 5302 of the Dirksen Senate Office Building on March 15, 1973, at 10 a.m.

The subcommittee will welcome statements for inclusion in the record of hearings.

NOTICE OF HEARINGS ON FINANCIAL REQUIREMENTS OF THE U.S. ENERGY INDUSTRIES

Mr. JACKSON. Mr. President, I take this opportunity to announce a hearing of the Committee on Interior and Insular Affairs on Tuesday, March 6, 1973, to examine the general questions and national policy issues associated with meeting the financial requirements of our country's energy industries.

Since the inception of the National Fuels and Energy Policy Study, in May 1971, considerable testimony has been received which indicates that the ability of our energy industries to meet their financial requirements may serve as a constraint on future energy supplies. In addition to capital funds for normal growth purposes, funds also are required to meet expanded environmental requirements. Meanwhile, the United States is encountering rapidly developing shortages of oil and gas as well as refined petroleum products.

In light of these circumstances, Mr. President, it is imperative that the Congress understand the full dimensions of these financial requirements. The subject hearing will convene at 10 a.m. in room 3110 of the Dirksen Senate Office Building and is being conducted pursuant to Senate Resolution 45 (92d Congress), which authorized the Senate's National Fuels and Energy Policy Study. The invited witnesses are:

Mr. William Pelley, vice president, Bankers Trust Co., New York, N.Y.

The Honorable George P. Schultz, Secretary of the Treasury, Washington, D.C.

Mr. John Winger, vice president, Chase Manhattan Bank, New York, N.Y.

Mr. Edward Symonds, vice president, petroleum department, First National City Bank, New York, N.Y.

Dr. Richard J. Gonzalez, Houston, Tex.

Mr. Eugene Meyer, vice president, Kidder, Peabody, New York, N.Y.

Other interested or affected parties are invited to submit statements for the record by April 6, 1973, in response to the general questions and policy issues in this subject area identified by the committee staff. I ask unanimous consent that a summary of these questions be printed in the RECORD at this point.

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

(Senate Interior and Insular Affairs Committee National Fuels and Energy Policy Study)

GENERAL QUESTIONS AND POLICY ISSUES—HEARINGS ON FINANCIAL REQUIREMENTS OF THE U.S. ENERGY INDUSTRIES—MARCH 6, 1973

INTRODUCTION

All witnesses and groups or individuals preparing statements for the record should cover the three general issues of List A. To the extent practical, they should also address those specific questions on List B that are within their areas of competence. Witnesses may deal with these issues either in their testimony or if necessary may respond later in an expanded statement for the record. The record will be kept open for about one month after the March 6 hearing date.

A. General issues

I. To what extent is the availability of capital expected to be a significant constraint upon investments to meet U.S. energy demand through 1985?

II. To what extent do current or foreseeable trends in financing and structure of the energy industries warrant concern regarding competition, economic concentration, or economic efficiency?

III. What, if any, major legislative, regulatory, or executive actions are called for with respect to the financing and structure of the energy industries including tax provisions; direct or indirect subsidies; government enterprise; anti-trust policy; monetary policy and regulation of prices, rates, securities markets, etc.

B. Detailed questions and policy issues

Answers to the following detailed questions should be supported wherever practical with historical and current data, quantitative estimates or projections, and reference to more complete sources of underlying data and analysis.

1. When, if ever in the past, has the availability of capital been the ruling constraint upon the ability of any United States energy industry to meet growing demand. How was this capital stringency indicated; what was its impact; what if any were the public policy responses, and what were their effects?

2. What, if any, major changes are expected between now and 1985 in the capital requirements of the energy industries relative to the United States economy as a whole? Specifically—

a. Is energy consumption expected to grow more or less rapidly than over past decades—more or less rapidly than the GNP?

b. How and to what extent do the changing mix and sources of primary fuels affect capital requirements per unit of useful energy output? To what extent will capital requirements per unit of useful energy output be affected by the United States' choice of primary fuel sources, domestic and foreign?

It would be useful here to provide authoritative estimates comparing capital costs per unit of output or throughput (e.g., per daily BTU) for primary production, transportation and conversion of energy from various sources and in various forms: e.g., crude oil from the U.S. Outer Continental Shelf (OCS), Alaska, the Venezuelan tar belt, the Persian Gulf; synthetic crude from coal, oil shale, Alberta tar sands; natural gas from onshore Lower 48, OCS, the Arctic; liquefied natural gas (LNG) from the Caribbean or the Eastern Hemisphere; synthetic natural gas (SNG) from imported petroleum or domestic coal; electric power from coal, oil or nuclear energy, etc.

c. To what extent are recently imposed (or prospective) environmental standards for air and water quality and land use, and health and safety standards, expected to affect capital requirements per unit of energy output or throughput?

d. What levels of total investment are expected to be required annually and cumulatively in each of the major energy industries to 1975, 1980 and 1985? How do these estimates reflect the factors identified in items a–c?

e. Is capital formation in U.S. energy industries expected to be a significantly larger or smaller proportion of Gross National Product or total capital formation in 1975, 1980 and 1985 than in past decades?

3. What, if any, significant trends are expected between now and 1985, compared to the past, in financing energy industry investments? Specifically:

a. What explains the trend of several energy industries toward lower ratios of internal financing? How far is this trend expected to continue? What, if any, special merit has a high ratio of internal financing from the standpoint of the national economy? Is the increasing reliance upon external financing by the energy industries a cause for concern?

b. To what extent is there a trend toward horizontal integration or conglomeration in the energy industries (formation of "energy companies" with interests in oil, coal, nuclear energy, etc.)? What explains this trend, and how far is it expected to continue? What, if any, merit does this trend have from the standpoint of energy supply, and what, if any, cause for concern does it raise with respect to inter-fuel competition, economic concentration, or economic efficiency?

c. What will be the trend in relative levels of investment by U.S. energy industries in (1) domestic facilities, (2) facilities abroad to serve U.S. markets, and (3) facilities abroad to serve foreign markets? To what extent and in what instances do these investment objectives directly compete with one another? (For example, do enhanced incentives for overseas oil exploration significantly diminish domestic exploration efforts?) What if any, causes for concern are there in the prospective trend in relative levels of domestic and foreign investment by the U.S. energy industries?

d. What role is investment by governments and national oil companies of oil exporting countries expected to have in meeting U.S. energy demand, and particularly in the financing of domestic facilities? What are the advantages, disadvantages and risks of such investment?

4. In what sectors or industries is the financing of new investment expected to be a significant constraint upon the adequacy of U.S. energy supplies? In each instance:

a. To what extent is financing a bottleneck distinct from the long-term profit expectation of the industry?

b. Is the financial constraint expected to be transitory or protracted?

c. What is the principal public policy constraint upon investment? (For example, price or rate regulation, anti-trust restraints, tax provisions, oil import policy, or uncertainty about any of the preceding?)

5. What is the impact on financing and on industrial structure of the special tax preferences currently applicable to oil and gas production? (Consider under this heading percentage depletion allowances, the expensing of intangible drilling costs and dry holes, and the interpretation that payments to foreign governments for oil and gas production broadly qualify for foreign tax credits.) Specifically:

a. In one or more recent years, what has been the total amount of depreciation, depletion, expensible drilling costs, and foreign tax credits claimed by U.S. oil and gas producers for domestic and foreign operations respectively? What was the net impact of these items considered separately and together, upon producers' net income? In the same years, what were gross domestic and foreign investment in oil and gas exploration and development? What are the ratios (for domestic and foreign operations) of current capital recoveries from oil and gas production by U.S. companies to their current investment in oil and gas exploration and development? How do these ratios compare with the ratio between current capital consumption allowances and current investment in all U.S. manufacturing?

b. On the average, in how many years is investment in oil and gas exploration and development recovered by depreciation and depletion allowances and expensing of intangible drilling costs and dry holes for U.S. companies' domestic and foreign operations, respectively? On the average, what is the ratio between capital recovered by these provisions over the life of an investment and the original capital outlay? What are the comparable average time span and ratio for recovery of investment through capital consumption allowances in all manufacturing in the United States?

c. What is the expected impact upon U.S. production and reserve additions of each percentage point increase or reduction in the depletion allowance?

d. What would be the impact upon U.S. production and reserve additions of depreciating rather than expensing intangible drilling costs and dry holes, respectively?

e. What proportion of the proceeds from each of the tax preferences for domestic oil and gas production is passed on respectively to consumers in lower prices, to landlords (including federal and state governments) in land prices and lease revenues, and to operators as net incentives for exploration and development investment?

f. What magnitude of price increases for crude oil and natural gas would be necessary to provide an investment incentive equivalent to each of the existing tax preferences for and gas production?

g. How, and to what extent, do the tax preferences for oil and gas production affect the structure of the industry? Consider especially alleged incentives to relatively high crude oil prices and low refining margins, and impacts upon the competitive position of independent refiners versus the major integrated companies.

h. What would be the impact of repealing or limiting the foreign tax credit upon the foreign operations of U.S. oil companies and upon world oil prices and supply?

6. What evidence or analysis exists whether large outlays for cash bonuses in federal and state oil and gas lease sales substantially diminish the capital that would otherwise be available for exploration?

7. What, if any, kinds of ventures necessary to future energy supply will require direct government participation in financing, because of the large magnitude of investment, high risk, distant payout or danger of abuse by private enterprise? In each instance, compare the merits and disadvantages

of direct and indirect subsidies, joint ventures between government and industry, and government enterprise. Consider particularly:

a. Exploration, development and/or production of conventional oil and gas;

b. Coal gasification and liquefaction;

c. Advanced power cycles for electrical generation;

d. Oil shale development;

e. Arctic oil and gas pipelines;

f. Pipelines and long-distance electric transmission lines generally;

g. Geothermal energy; and

h. Breeder, fusion and solar energy.

8. What legislative, regulatory, or administrative measures are desirable to assure adequate investments to serve U.S. energy needs, or to preserve or enhance competition or economic efficiency? Policy proposals offered under this item should be related to factual and analytical responses to the preceding questions.

NOTICE OF HEARING ON SMALL BUSINESS ADMINISTRATION

Mr. CRANSTON. Mr. President, I wish to announce that the Subcommittee on Small Business of the Banking, Housing and Urban Affairs Committee will hold hearings on legislation to increase total amount of loans, guarantees, and other obligations under section 4(c)(4) of the Small Business Act on March 13 and 14.

In addition, testimony will be heard on S. 804, a bill to authorize economic disaster loans to enable small business firms to comply with new Federal, environmental, consumer, pollution and safety standards.

The hearings will commence at 2 p.m., Tuesday and Wednesday, in room 5302, New Senate Office Building.

All persons wishing to testify should contact Carolyn Jordan, room 455, Old Senate Office Building, telephone number 225-8131.

ANNOUNCEMENT OF HEARINGS ON THE LEGISLATIVE ROLE OF CONGRESS IN GATHERING AND DISCLOSING INFORMATION

Mr. METCALF. Mr. President, the Joint Committee on Congressional Operations will open hearings on March 20 to examine the threat to the flow of information between Congress and the American people arising from recent Supreme Court opinions.

The hearings will continue on March 21, 27, and 28. I have reserved the first two hearing dates to hear the views of Members of both bodies on this matter. Members are, of course, welcome to appear or file a statement for the consideration of the committee at any time.

Mr. President, the traditional sanctions for legislative misconduct—censure by one's colleagues or defeat by one's constituents—were recently adjudged by a majority of the Supreme Court in two instances not to be sufficient to hold the legislative branch in check in the performance of its constitutional role in the Federal Government.

In these opinions, in cases involving past and present Members of this body, the Court acted to severely restrict the scope of legislative immunity, the constitutional doctrine premised upon article I, section 6, which has historically exempted Members of Congress from being questioned—in "any other place"—for actions undertaken in the performance of the duties of their offices.

For the first time in our history, legislators have been put on notice that their activities "within the scope of their employment" can be questioned in the Federal tribunals of the grand jury and courtroom, when those activities can be described as "political" rather than "legislative" in character.

Mr. President, so that there will be no misunderstanding, I emphasize at this point that I am not here today to argue for or against the Members of Congress who were parties to these court actions.

I am speaking for the interests of the Senate of the United States and of the Congress. I am speaking for the interests of all the American people, by whom we have been elected to insure their representation in the affairs of our National Government.

The joint committee has not annointed itself as a higher court of appeal for the decisions handed down by the Justices of the Supreme Court in these two most recent cases.

What the joint committee will do in the course of hearings to begin on March 20 is to examine the ominous side effects of the majority's opinions in these two cases on the capability of the Congress to fulfill its role as a coordinate and coequal body in the constitutionally established form of government conceived by the Founding Fathers in 1789.

Those wise men understood almost 200 years ago that the survival of freedom in this country would depend on the survival of the checks and balances within the Federal Government they had forged into the Constitution. They gave to each branch—legislative, executive, and judicial—specific responsibilities. Then, to enable each to perform its role, each was given independence from the other two within the scope of those responsibilities.

That is what separation of powers is all about.

The constitutional bulwark insuring the independence of the legislative branch from the executive and judiciary is article I, section 6 of the Constitution—the speech or debate clause.

That is what these hearings are all about.

In simplest terms, that clause affords me and every Member of Congress the freedom to seek information about the operations of the Federal Government and to speak out about what we discover in our role as legislators.

We were given that freedom for neither selfish nor self-serving purposes, but to better serve the interests of those we represent in Congress.

A Member of Congress finds himself serving his constituency—and, in many instances, the country—not only as a legislator, but as a troubleshooter, a news gatherer, educator, and information source—an ombudsman for the people.

Which of the many functions a Member performs daily in the discharge of the duties of his office can be characterized as "legislative activities," for which he is historically and constitutionally accountable only to his colleagues and the electorate he represents in the Congress?

What is the appropriate role of a legislator in carrying out his constitutional responsibility as the elected representative of the people?

Who shall determine for the legislative body the limits of that role for an individual legislator?

What distinguishes a "legislative" act from a "political" act within the scope of a legislator's employment—and is there a distinction?

The answers to these and other questions will be pursued in the course of these hearings.

The language of article I, section 6 of the Constitution—on which is founded the immunity of legislators from accountability for their acts as legislators, before any body other than their House of Congress or their electorate—provides that—

> For any Speech or Debate in either House, they [the Senators and Representatives] shall not be questioned in any other Place.

This language is steeped not only in the traditions of this young Nation, but in the heritage of the early English colonists, who brought with them to this country the hard-won victory of independence of the legislature from the Crown—a commitment formalized in the classic terms of legislative immunity in the English Bill of Rights of 1689. The enunciation of this immunity in the new Nation's Constitution was agreed upon by the Founding Fathers virtually without debate or opposition a century later in 1789.

As late in our history as the mid-1960's, the small number of courtroom contests in which the role of a legislator had been questioned—only twice had the Supreme Court considered such cases—was commented upon by Justice Harlan. He noted, in his opinion for the Court in the third such instance that—

> In part because the tradition of legislative privilege is so well established in our polity, there is very little judicial illumination of this clause. [*United States* v. *Johnson*, 383 U.S. 169 (1966).]

What the courts had agreed upon by that time—and continued to follow as the tempo of their consideration of cases involving speech or debate clause immunity increased—was "that the legislative privilege will be read broadly to effectuate its purposes." (383 U.S. at 180.)

This traditional breadth of interpretation was acknowledged in the two decisions most recently announced by the Supreme Court involving interpretations of the clause. In each of those decisions, the Court spoke boldly of the essentiality of a broad interpretation of the clause in maintaining the constitutionally established separation of powers of the Federal Government.

The Court in *Gravel* v. *United States* (408 U.S. 606, 618 (1972)) noted that—

> [R]ather than giving the clause a cramped construction, the Court has sought to implement its fundamental purpose of freeing the legislator from executive and judicial oversight that realistically threaten to control his conduct as a legislator.

And, in *United States* v. *Brewster* (408 U.S. 501, 516 (1972)), the Court stated that—

[A]dmittedly, the Speech or Debate Clause must be read broadly to effectuate its purpose of protecting the independence of the Legislative branch. . . .

However, the net result of the Court's interpretation of immunity under the clause in the opinions in these two cases was a narrowing of its scope without precedent in its long history.

Historically, the Court has defined the scope of legislative immunity by the legislative activities it considers to be included within the terms of the constitutional provision. These "legislative activities" are the activities traditionally related to the functions of a legislator's office. The immunity has never been strictly construed as limited to the constitutional language—to the "speech or debate" of a legislator—but has been judicially recognized to include, in addition, such activities as voting, the filing of written reports, "to things generally done in a session of the House . . . in relation to the business before it," (*Kilbourn* v. *Thompson,* 103 U.S. 168, 204 (1880)) "to every other act resulting from the nature, and in the execution. of the office," and "everything said or done . . . as a representative, in the exercise of the functions of that office." (*Coffin* v. *Coffin,* 4 Mass. 1 (1808), cited with approval in *Kilbourn* v. *Thompson, supra,* and *Tenney* v. *Brandhove,* 341 U.S. 367 (1951)).

Today, the scope of legislative immunity is much diminished. Mr. Justice White, writing the majority opinion in Gravel, defined legislative acts as being only those acts which are—

An integral part of the deliberative and communicative process by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House. [408 U.S. at 625.]

The Chief Justice added a "purity" test to the definition of legislative activity in dicta in the opinion he drafted for the majority in Brewster. Immunity from prosecution for the legislator was said to attach to "purely legislative activities." He defined such activities by enumerating what must be called not-so-pure legislative activities. He wrote—

These include a wide range of legitimate "errands" performed for constituents, the making of appointments with government agencies, assistance in securing government contracts, preparing so-called "news letters" to constituents, news releases, speeches delivered outside the Congress. The range of these related activities has grown over the years. They are performed in part because they have come to be expected by constituents and because they are a means of developing continuing support for future elections. [408 U.S. at 512.]

The Chief Justice concluded that these activities were "legitimate," but distinguished them as "political in nature rather than legislative." Such so-called political activities, though acknowledged to be an "established and accepted part of the role of a Member" were absolutely excluded from any protection under the speech or debate clause.

What, then, does all this mean to the individual Member of Congress? Perhaps the simplest guideline for his conduct—if that conduct is to be immune from questioning "in any other place"—is, as the Chief Justice argues in Brewster, that the conduct must take place "within the walls of the Representatives' Chamber." At least the Chief Justice would include not only the ceremonial Chambers of the two Houses, but the committee meeting rooms, as well. (408 U.S. at 514–515.)

While this may be too simplistic an approach to legislative immunity, it may today be the most prudent for a Member. For the consequence of this most recent definition of legislative activity and the Court's interpretation of the impact of that definition place beyond the scope of speech or debate clause protection virtually all acts undertaken by a Member or his staff outside official Capitol Chambers.

The preparations for and the implementation of protected legislative activities are not protected. (408 U.S. at 626.)

Thus, the gathering and receipt of information in preparation for the initiation of an investigation or the introduction of legislation is not an activity for which a Member or his staff is exempt from liability. So, too, preparations for the printing and distribution of information by a legislator—for example, in news releases, newsletters, and speeches at private functions—can be called into question. Where officers of the executive branch consider it to be warranted, a Member or members of his staff can be subpenaed to appear before a Federal grand jury to answer questions regarding the possible violation of criminal law by them or by third parties with whom they had contact.

We have read and heard a great deal in recent months about the action of the Court restricting a news reporter's right to protect the confidentiality of his sources of information. This was a result of the decision in the case of *Branzburg* v. *Hayes* (408 U.S. 665 (1972)), announced by the Court on the same day as Gravel and Brewster—June 29, 1972. What many Members of Congress may not have fully realized or appreciated is the identity of position in which we have been placed as a result of the Gravel and Brewster decisions; our right to protect the confidentiality of our sources of information has been likewise restricted. As one editorial writer has commented:

If there was one resounding note in the welter of opinions from the Supreme Court Thursday, it was the low value the Courts news majority places on the flow of information. In three cases involving a newsman's right to protect confidential sources, the Court brushed aside claims that forced disclosure of confidential information and of the identity of sources would lessen substantially the flow of news to citizens. In another case involving an aide to Senator Gravel, the Court denied the existence of any constitutional link between the legislative duties of a Congressman and the information he receives or sends to his constituents. In still another, this one involving Senator Brewster, the Court said that among the things which are not purely legislative and activities of Congressmen are "preparing so-called 'news letters' to constituents, news releases, speeches delivered outside the Congress." All these decisions, taekn together, indicate that the new majority on the Court is remarkably insensitive to the First Amendment to the Constitution and to what we had always thought were two fundamental principles of a republican form of government—the need of the public to know what is going on in and out of government and the need of the public's representatives to communicate freely with it. [Washington Post, July 1, 1972, at A18, col. 1.]

What seems ironic about the timing of the announcement of the restricted scope of immunity for the legislative branch, particularly as it seeks to gather information to better perform its legislative function, is that it was coincident with increasing refusals by the Executive to make information available to Congress. The increased incidence of the invocation of executive privilege and the mounting of strong defenses against congressionally sponsored court actions seeking withheld information under the Freedom of Information Act deny to the Congress essential knowledge for the exercise of its constitutional check and balance through legislation and oversight.

When official channels of information between these two branches are blocked, Congress must often rely on unofficial—and, in some instances, confidential—informants. How much information can we now expect to receive from unofficial sources, when we can at any moment be called before a grand jury or other judicial body and be required to identify the source of our information? We are left then with only one source of information about the operations of the executive branch—the official spokesmen for the administration, when they will talk to us.

The Court, acting at the behest of the lawyers for the Executive, has thrown down the gauntlet before the Nation's legislators. As was true of the early invocation of legislative immunity in the 17th century, of its adoption at the moment of birth of this new Nation and of the historic deference it has heretofore been accorded by the judicial interpreters, Members of Congress do not set out to resolve this problem for self-serving purposes.

Legislative immunity is not the personal prerequisite of a legislator.

It is not lightly invoked merely to save a legislator from the distraction of having to spend a day or so in court to defend an action he has taken in the course of his duties.

It is the independence of the legislative branch—not the special status of a legislator—which is at stake when the speech or debate clause is diminished in scope.

The members of the joint committee seek the views of their colleagues in the Congress, representatives of the executive branch, spokesmen for the media and experts in legal practice, constitutional law, political science, and congressional operations from public and private life on these problems in the forum of these hearings.

It is anticipated that the hearings will serve several purposes: To alert the legislative community to the full dimensions of the problem with which it is faced; to

focus the attention of everyone who should—and must—be concerned with the consequences of this restricted view of the legislative role in insuring a free flow of information from Washington to the people; to exchange views and ideas; and, finally and most importantly, to explore recommendations for action by the Congress.

A special report of the joint committee has been prepared containing briefs of the Gravel and Brewster decisions and the full text of the opinions of the Justices of the Supreme Court in these cases. These reports, additional information, and the scheduling of testimony for these hearings can be obtained from the joint committee offices in room 1628, Longworth House Office Building. The telephone number there is 225–8267.

NOTICE OF HEARINGS ON CORPORATE SECRECY AND CONGLOMERATE MERGERS

Mr. NELSON. Mr. President, for myself and the Senator from Louisiana (Mr. JOHNSTON), I announce that the Subcommittee on Monopoly and the Subcommittee on Retailing, Distribution, and Marketing Practices of the Select Committee on Small Business will commence joint public hearings on March 8, 1973, at 1 p.m. in room G–308, the auditorium of the Dirksen Senate Office Building.

These hearings will be a continuation of a series of studies and hearings on corporate giantism and corporate secrecy. The two subcommittees conducted joint public hearings on the subject in 1967–68, and the Subcommittee on Monopoly pursued the subject alone in 1969–72. The topic of the new series beginning next week will be "Corporate Secrecy: Conglomerate Mergers."

In these hearings, the subcommittees will be concerned with the information loss that has occurred and is occurring as a result of conglomerate mergers. We shall be examining with special care the powers and activities of the Federal Trade Commission as they relate to the collection and publication of corporate data.

The particular focus for at least the first 2 days of this phase of the hearings will be the staff report to the Federal Trade Commission released on January 3, 1973, and entitled "Economic Report on Conglomerate Merger Performance: an Empirical Analysis of Nine Corporations."

The witnesses on March 8, who will appear together in a panel session, will be Dr. H. Michael Mann of the Federal Trade Commission's Bureau of Economics, Prof. Stanley E. Boyle of Virginia Polytechnic Institute, Prof. Willard F. Mueller of the University of Wisconsin, and Harrison F. Houghton, economic consultant. Dr. Mann is presently the director of the FTC's Bureau of Economics, Professor Mueller is a former director, and Mr. Houghton is a former acting director. Professor Boyle, as a consultant to the FTC, served as principal author of the "Nine Conglomerates" study.

At a subsequent session of these hearings, for which the date has not yet been selected, we hope to have all members and perhaps some past members of the FTC as witnesses.

The subject matter to be discussed at the hearing on March 8 is complex. To clarify the issues before the hearing, we shall distribute to witnesses and the press, and insert in the RECORD in full or in summary, a list of the questions we hope to get answered, with some explanatory materials.

In the meantime, I ask unanimous consent to insert in the RECORD at the conclusion of my remarks the Federal Trade Commission's January 3 press release announcing publication of the "Nine Conglomerates" study, and an article from the January 29, 1973, issue of the New York Law Journal captioned "A Critical Review of FTC's Report on Conglomerates." The article, which is indeed critical of the report, is unique in my experience, because the author of the harsh review is also the principal author of the report, and a witness at our hearing next week, Prof. Stanley E. Boyle.

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

[FTC press release, Jan. 3, 1973]

FTC ISSUES STAFF ECONOMIC REPORT ON CONGLOMERATE MERGER PERFORMANCE

The Federal Trade Commission today announced the publication of a staff economic report completing its study of nine large conglomerate companies. The report is the second in a two-part examination of the economic effects of the merger movement of the 1960's. The first part, entitled, *Economic Report on Corporate Mergers*, appeared in 1969. While the first study provided information on the extent of conglomerate merger activity, it did not provide a detailed analysis of the actual effects of such mergers.

To form a basis for such an analysis the Commission's staff sent a series of questionnaires to nine large conglomerate corporations which had engaged in extensive merger activity. The firms selected for study were:

International Telephone & Telegraph Corp.
Ling-Temco-Vought, Inc.
Gulf & Western Industries, Inc.
Rapid-American Corp.
Litton Industries, Inc.
FMC Corp.
Textron, Inc.
Norton Simon, Inc.
White Consolidated Industries, Inc.

During the 1960–68 survey period the nine companies acquired 348 companies with assets totaling nearly $10 billion. Merger activity of the sample companies reached a peak in 1968 when they accounted for 26 percent of all assets acquired in large manufacturing and mining mergers.

Entitled "Conglomerate Merger Performance: An Empirical Analysis of Nine Corporations," the report tells how the surveyed companies have operated acquired firms after merger, outlines the patterns of their diversification, and examines their positions in individual product markets. The report also focuses on the effect of conglomerate mergers upon the amount and quality of financial information available to the public, as a result of the incorporation of acquired firms' separate financial statements into the single company-wide consolidated statements of conglomerates. While acknowledging some weaknesses in the data and the time-frame covered by the study, the report nevertheless is able to make the following major findings:

1. The sampled conglomerates made few, and then only minor, changes in the operation of the firms they acquired. Virtually no changes were made in the administration of marketing, research and development, or purchasing. The changes generally occurred in functions that appear essential for control of the acquired unit, e.g., certain administrative functions, legal services, auditing, and insurance policies. For the most part, the acquired firms continued to operate much as they did when they were separate entities. The report suggests that there is little validity to the hypothesis that conglomerates somehow increase efficiency by gathering together a large number of disparate activities, a phenomenon called "synergism." If this theory had merit, there would have been greater centralization in the survey companies than was the actual case.

2. The report found that the sampled conglomerates' usual pattern of diversification involved acquisitions with ". . . rather insignificant positions in industries with low or intermediate levels of concentration," and their market positions have typically not increased since acquisition. Based on this evidence, the report suggests that the sampled conglomerates are not, by and large, making toehold acquisitions—i. e., acquiring small firms in concentrated industries. Moreover, in the cases where they made such acquisitions, no apparent expansion in the market shares has occurred; that is, the sample conglomerates did not, at least within the post-acquisition period examined, have a pro-competitive impact.

In addition, ". . . the conglomerates are participants in markets which, if anything, are slightly less concentrated than manufacturing generally. . . They also appear to be moving, through their merger efforts, into even less concentrated industries than they had been initially." The fact that these conglomerates' existing positions tend to be in industries which, on the average, are not highly concentrated and that their mergers are in less concentrated industries, according to the staff report, suggests that these conglomerates have produced little, if any, of the anti-competitive effects that would result from increases in concentration.

The report indicates that if the alleged anti-competitive behavior of conglomerates—predatory pricing, reciprocal dealing, mutual forbearance—takes places, the indispensable condition is prior market power. The sampled conglomerates do not, by and large, seem to possess, or have acquired, market positions with the structual characteristics conducive to market power.

3. The staff study concluded that the sampled conglomerates publish financial information at such a high level of aggregation that it is virtually impossible for an investor, financial analyst, researcher, or policy-maker to determine what is in fact going on. Although such information is not made public, the survey found that it is possible, however, to produce meaningful, disaggregated line-of-business information.

Five of the sampled conglomerates were able to provide Commission staff with profit data for their leading products (in excess of 1 percent of sales) on a SIC 5-digit product level. This level of detail, in the opinion of the staff, comes close to representing profitability for economically-meaningful markets—much closer than anything that currently exists from public sources. The report concludes that the benefits from having such information available to owners, analysts, and policy-makers are substantial and vital to an efficient functioning of these enterprises and of our economy.

"It is time," said Dr. H. Michael Mann, director of the FTC's Bureau of Economics, "for the appropriate government agencies to develop a workable plan to implement a re-

quirement that highly-diversified firms produce line-of-business sales and profit data."

Co-authors of the staff report are Philip W. Jaynes and Prof. Stanley E. Boyle, Virignia Polytechnic Institute and State University, who participated in the project as a consultant.

A limited number of copies of the report are available in Room 130 (Legal and Public Records Division) of the FTC Building, Sixth St. and Pennsylvania Ave., N.W., in Washington. The report also will be available in approximately three weeks from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, at $6.75 per copy. Accession Number PB-213 556 should be given when ordering from NTIS.

(NOTE.—For further information, Call: David H. Buswell (202) 962-7144.)

[From the New York Law Journal, Jan. 29, 1973]

A CRITICAL REVIEW OF FTC'S REPORT ON CONGLOMERATES

(By Stanley E. Boyle)

Early this month the Federal Trade Commission released the long awaited Part II of the conglomerate merger study. This report examines in considerable detail the performance of conglomerate mergers engaged in by nine large corporations over the decade of the 1960's. These firms (ITT, Litton Industries, LTV, Textron, Gulf & Western, Rapid-American, White Consolidated, FMC, and Norton Simon) all achieved considerable growth through the medium of conglomerate merger activity.

At the beginning of the decade only one company, ITT, ranked among the 100 largest manufacturing corporations. By the end of the period, six of the companies ranked among the 100 largest and three additional among the next fifty. The aggregate assets of these nine corporations increased from $2.0 billion in 1960 to $16.9 billion in 1969, an increase of $14.9 billion. A minimum of 65 per cent of that growth was achieved through merger activity.

At this point we might well ask whether or not the merger activity of these firms could be classified as successful. If substantial and rapid growth in sales and assets is synonomous with success, the answer would have to be yes. On the whole, they were successful when reference is made to the rate of profit earned by the nine firms. In 1969, eight of the nine firms had a return after taxes on stockholders equity of 11.4 per cent or greater.

However, some of the individual acquisitions were not successful by any of these measures. The Commission originally collected data showing the rate of return of each business division (including acquired companies) for each of the nine large corporations. These data showed rather clearly that many of the acquired corporations were unprofitable. In some instances, the losses earned were substantial.

Unfortunately, the Commission saw fit to withhold the publication of these detailed data with the result that much of the information which would prove interesting and useful were deleted. This agreement was made by one of the Commissioners without informing or consulting with the staff or other members of the Commission. The net result of this blunder was to substantially reduce the detail and the value of the information contained in the version of the *Report* which was approved for publication by the Commission.

OTHER QUESTIONS

Three other questions with respect to the economic effect of these acquisitions are worth mentioning at this time. First, what was the impact of the acquisition upon existing market conditions, i.e., upon other firms in the industry? Second, what was the impact of such conglomerate mergers upon the welfare of stockholders of the acquiring companies? Third, how did these mergers affect the threat of potential entry into the market by not already manufacturing or selling products supplied by conglomerate firms?

It is difficult and perhaps unnecessary to be able to discern the *direct* adverse effects upon other firms producing similar products which comes about as a result of acquisitions by conglomerates. The reasons for this is somewhat simple, i.e., the number of firms in the industry and their size distribution in terms of market shares, either in terms of value added or sales, remains unchanged as a result of a conglomerate acquisition. Consequently, those steeped in the rhetoric of the impact of mergers upon competition in narrowly defined product markets will find appraisals of the impact upon competition of conglomerate acquisitions difficult to understand and to interpret. This, of course, is the reason why the antitrust agencies have encountered so many difficulties in trying to formulate a consistent approach to the problem.

The more significant questions deal with (a) the impact of the diversified firm (where diversification is achieved through conglomerate merger) upon stockholders' knowledge and welfare, and (b) the impact of, conglomerate merger upon the strength of potential entry.

ARTICLE OF FAITH

The *Report* indicates clearly that firms which have engaged in conglomerate merger activity and which are highly diversified, by definition, do not transmit any of the detail regarding the profitability of their individual operations of the concern to its stockholders (owners). In fact, corporate officials usually plead that diversification makes it next to impossible for them to report the results of their operation in such a way that stockholders would be able to understand and information made available to them through the use of more detailed reporting procedures. Owners are asked, therefore, to accept the competence of managers in much the same way one accepts religion—it is simply an article of faith.

At this point, however, one feels that the primary intent of the management of the corporations is to systematically restrict the amount of information made available to the owners of the corporation. If, for example, an acquisition which is approved and made by the existing management turns out to be an unprofitable one, the corporate manager will do his best to avoid this information reaching the corporate owners. The primary concern of management is, therefore, to remain in power—all else is of secondary importance. As a consequence, we have a continuation of the differing goals of managers and owners pointed out in Berle and Means' early study, *Private Property and Public Policy*, and in recent studies by Larner and others.

This inability on the part of the owner to obtain meaningful information as to the profitability of the corporation limits his knowledge regarding the corporation in two ways. First, he is unable to discern if indeed the corporation is making or losing money in any particular activity. Second, it is almost impossible for him to discern whether or not his corporation is doing as well as others producing the same product. Put another way, it means that he has no basis for evaluating the performance of those presently in control of management.

INTEREST IN COMPANY

The more widely held is the stock of the corporation, and the more widely diversified the corporation becomes, the more difficult it is for owners to obtain an accurate or meaningful accounting of the firm's activities. The disregard of managers for the interests of owners is usually based upon some idea that owners (usually referred to as stockholders) have no long-term interest in the welfare of the company. This seems a specious argument at best, since it assumes that owners always think of a profit in the short run.

Mention was made above of the fact that conglomerate merger activity often results in the domination of a vast number of industries by an increasingly limited number of firms which may adversely affect the efficient operation of these industries, because of the fact that it enables firms to obscure relevant information regarding the presence of substantial profits from firms not already in the industry. An example of this might be seen in the production of a product like refrigerators.

An independent producer of electrical equipment not in the industry would have considerable difficulty in determining whether or not not that industry is one which is or is likely to be profitable. Almost all of the output of the industry is produced by large conglomerate firms, no one of which is *primarily* or *solely* engaged in the production of refrigerators. Past experience suggests that both the sales and profits from this line of activity may be obscured under some general classification like "consumer products" or "electrical equipment," or for that matter, as part of the total sales and profits of the entire corporation.

DATA THROUGH "SPYING"

Unless a potential entrant into the industry has some reason to believe that substantial profits are to be made in the production of refrigerators and then goes to the trouble of engaging in some form of industrial espionage, he is unlikely to be able to determine the extent of the industry's profitability.

In this way, therefore, conglomerate merger activity results in increased diversification and in a substantial increase in "information loss." These combine to obscure profits and the profit opportunities available in these industries. If the rate of return is high and this information were known to potential entrants, entry would occur, supply would increase, and, assuming no change in demand conditions, prices would decline. On the other hand, however, if information regarding the profitability is not available, it becomes virtually impossible for potential entrants to determine the extent of profitability of such activities.

The general lack of information with respect to the profitability of the divisions of these nine companies is best seen by reference to some of the material contained in the recent *Report*. These data show, for example, that 22 per cent of the divisions for which profit data were supplied to the FTC showed losses in 1969. At the other extreme, 21 per cent of the divisions showed profits after taxes of 20 per cent or more on assets, while an additional 27 per cent earned a rate of return of between 10 per cent and 20 per cent. These detailed facts are unavailable to other owners or potential entrants, if they depend upon data now supplied stockholders and others by large American corporations.

In his press conference, H. Michael Mann, Director of the Bureau of Economics, suggested that the effect of conglomerate mergers on competition may be largely neutral. As an author of that *Report*, I find nothing to support that position. What the *Report* does show is that none of the *traditional* arguments in favor of or against conglomerate mergers seems to be borne out by the information collected and presented in that *Report*. Synergism does not appear to be a significant fact of life for the acquisition made by these nine large corporations. Nor is it possible to substantiate any other arguments usually made in favor of conglomerate mergers.

The *Report* showed as a practical matter that the acquiring firms make little or no significant changes in the operation of the

firms which they acquired. The only activities which seem to have been consolidated following acquisition involved accounting and auditing procedures, benefit and charitable contributions, and activities related to the provision of the normal business flow of funds into and out of banks. All these are rather simple, straightforward, and uncomplicated.

At the other extreme, however, it is apparent that the corporations did little if anything on the average to consolidate or centralize research and development activities, product promotion and advertising, or purchasing.

If indeed there is some mystical synergistic effect, this *Report* was unable to discern it. Of the sixty four divisions for which preacquisition and post-acquisition profit information were available, the data show that firm postacquisition profits declined in 58 per cent of the cases, and increased in only 42 per cent.

INDUSTRY TOEHOLD

Some traditional arguments against conglomerate mergers were also impossible to appraise. Many have suggested that large diversified companies buy smaller corporations and thereby obtain a "toehold" in the industry which they then later expand to achieve a significant market position. This allegation cannot be supported from the information contained in the *Report* since, on the average, the postacquisition market shares tended to be smaller than those possessed by the acquired firm.

Others have suggested that improved opportunities for reciprocity are a result of conglomerate mergers. It is obvious, of course, that the more diversified a corporation is, the greater may be its reciprocity leverage. The information obtained for this *Report* does not indicate, however, that this is a problem peculiar to mergers nor does it indicate that this was a widely employed tactic by these firms.

In summary, it seems therefore, that the major impact of conglomerate merger activity is in the area of reducing the efficiency of markets through a limitation upon possible entry situations. Lack of knowledge in this area must inevitably lead to a reduction in the quality of performance in any market.

LOOKING AHEAD

What of the future of conglomerate merger activity?

It is perfectly clear that if merger activity is to take place in the future that the bulk of it must be of a conglomerate nature. The procedures of the two antitrust agencies clearly limit the extent to which large firms may engage in other horizontal or vertical mergers. One important way of offsetting this "information loss" would be to require firms to report on a product-line basis. This would enable corporate owners and others (potential entrants) to determine and to appraise the relative efficiency of a corporation's present management in its various activities.

Short of such a change in the corporate reporting procedures, it is clear that conglomerate merger activities will continue as a primary source of corporate growth of many already large American corporations. If this movement is left unhampered in any way, it is possible that we may achieve what writers at the turn of the century referred to as "gentlemen's agreement" with respect to the relative areas of domination of a few large firms in their various activities.

Mutual accommodation may become the accepted way of life. If this happens, competition in any meaningful sense will wither and die and so will our economic system, at least as we know it. To say that the competitive effect of conglomerate mergers is neutral is an exhibition of a gross misunderstanding of the phenomena.

NOTICE OF HEARINGS ON OMNIBUS DISTRICT COURT JUDGESHIPS

Mr. BURDICK. Mr. President, I wish to announce that a continuation of open public hearings has been scheduled before the Subcommittee on Improvements in Judicial Machinery relating to the recommendations made by the Judicial Conference of the United States (S. 597) that an additional 51 judgeships be created in selected judicial districts in the United States.

The hearings will be held in room 4202, Dirksen Office Building commencing at 10 a.m. on March 6 and 7, 1973.

On March 6, testimony will be received from the chief judges of the District of Oregon, the Western District of Washington and the Eastern District of New York.

On March 7, testimony will be received from the chief judges of the District of New Hampshire (S. 664), the Middle District of Pennsylvania (S. 253) and the Eastern District of North Carolina.

Communications relative to these hearings should be directed to the subcommittee staff, 6306 Dirksen Office Building, extension 5-3618.

ADDITIONAL STATEMENTS

OIL IMPORT QUOTAS

Mr. MUSKIE. Mr. President, it has now been 6 weeks since President Nixon temporarily suspended controls on imports of No. 2 heating oil in an attempt to ease the critical shortage of fuel throughout many parts of the Nation. It seems appropriate, therefore, to evaluate the results of the President's action, at least as they are evidenced in my own State of Maine, and to attempt to draw some conclusions from this experience:

First. Heating oil continues to be in short supply: The intention of the President's proclamation was, according to a statement released on January 17, to "insure an adequate supply of heating fuel for homes and businesses this winter." Yet, neither consumers nor oil dealers in Maine have received assurances that supplies of No. 2 oil will be increased for the balance of the heating season. Arbitrary monthly quotas imposed by the major oil companies on local dealers are still in effect and could easily result in major oil shortages in the coming weeks should temperatures remain below 1972 levels.

Second. There has been no concrete evidence offered by the major oil companies that they have increased supplies as a result of the President's relaxation of controls: At a meeting in Augusta, Maine, with officials of more than a dozen major oil companies on January 30, Gov. Kenneth M. Curtis asked for specific information as to who would be receiving renewed oil supplies under the new import authorization, when, and in what quantities. The response was neither complete nor adequate and can be summed up in the statement of one company representative that the situation "does not look insurmountable." This information is hardly helpful to those who must plan allocations for the rest of the winter.

Third. The independent terminal operators have not been able to purchase quantities of No. 2 oil overseas: The independents, on whom New Englanders depend not only for supply but also for price competition with the major companies, have found the temporary, 3-month relaxation of import controls to be of little use. Denied the opportunity to make year-long contracts with foreign suppliers, the independents either cannot purchase No. 2 oil at all or can do so only at uncompetitive prices.

Fourth. Price increases of more than 8 percent for home heating oil have been announced by the major oil companies: It is quite likely that these price increases are not directly related to January's revisions in the import program. Nonetheless, if import controls had been relaxed last fall and throughout the heating season, sufficient quantities of oil at lower prices would have been available to provide competitive pressures on the major oil companies.

Fifth. There are continued supply problems with other petroleum products, such as kerosene, which are not covered by the President's proclamation: Maine, as is the case with several other States, relies heavily upon kerosene—generally classified as No. 1 oil under the import program—for home heating purposes. Although the assumption at the time of the President's decision was that the relaxation of controls on No. 2 oil would relieve shortages of kerosene, there is no evidence in Maine that this has taken place. The Maine congressional delegation was able, however, to arrange emergency authority for overland kerosene imports from Canada to deal with spot shortages. This has been helpful, but clearly illustrates the aggravating problems associated with trying to work within the bureaucratic tangle of the import program. The arrangement also put Maine consumers in the position of having to accept kerosene at prices up to 30 percent higher than normal due to restrictions placed on the authorization.

Mr. President, the lessons of the last 6 weeks, in my judgment, lead to only one conclusion. Manipulation and frantic last-minute adjustments in a patchwork program of Government-administered oil imports is simply an inadequate solution, now and in the future, to the problem of assuring an adequate supply of heating oil for our homes and businesses.

Worse, the success of this system is dependent upon the cooperation of the domestic oil companies to produce heating oil and other products in sufficient quantities to meet demand. Frankly, Mr. President, I do not have confidence in the oil industry's willingness to carry out its side of the bargain—particularly after I read a report last Thursday that the Office of Emergency Preparedness was given assurances by the oil industry last fall that it would produce sufficient supplies to avoid shortages this winter.

The success of the import program is also dependent upon the willingness of

a President and his administration—any administration—to make appropriate adjustments in the import program to meet changes in demand. Here, too, the record of 14 years and four administrations is one of a failure to respond to the needs of the consumer. Instead, we have had an annual import program, based largely on guesswork, designed to permit only enough supply to meet estimated demand without regard to price competition.

The solution is to abandon the oil import program.

That is why I was pleased to join yesterday with my distinguished colleague from New Hampshire, Senator THOMAS MCINTYRE, in sponsoring legislation to terminate the mandatory oil import quota system on June 30, 1973. I urge prompt action on this measure and hope that the House of Representatives will also take swift action on a companion bill introduced in that body.

The end of the oil import program will not be a sudden panacea for oil problems of the country or of my region. We must continue to explore means of increasing domestic production, improving and maintaining healthy price competition, developing alternative energy sources, and adopting a comprehensive national energy policy for the years ahead. But the starting point for all of these efforts must be to eliminate an ill-advised and poorly administered program of import controls which has only served to make our problems worse.

A MORE RELAXED PRESIDENT NIXON

Mr. SCOTT of Pennsylvania. Mr. President, in an extremely well-worded editorial, William Randolph Hearst, Jr., has described President Nixon as a man beset by "some of the grimmest responsibilities ever faced by a man in the White House." Hearst adds, however, that the President was armed with the "cozy knowledge" that he had the majority of the American people behind him. This gave him the courage to make the necessary decisions.

Mr. President, I ask unanimous consent that this fine editorial be printed in the RECORD.

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

A MORE RELAXED PRESIDENT NIXON

(By William Randolph Hearst, Jr.)

On stage, backstage and in the wings of the drama—the end of war and the triumphant return of our POWs—stands Richard M. Nixon who, for sure, has been the loneliest man in town over the past few years.

When, in the 1968 campaign, Nixon told the people any administration that couldn't end the war in Vietnam over a four-year period didn't deserve to be returned to power he was obviously sincere and had a plan to do just that—end the war.

Let's face it. He didn't miss by more than a few months and, in my opinion, if he hadn't been harassed by the "peace at any price," mob he might very well have hit his own schedule of things.

Of course, those of us who have been around the political scene for a while are aware that the President had a hidden weapon in the recent campaign. Its name was George McGovern who acted throughout the whole affair like someone trying to lose a bingo game. The most adept presidential politician the country has seen since F.D.R., Nixon fed all the necessary rope and left George swinging with the President polling one of the largest majorities in U.S. history.

Nixon then, very humanly, may have concluded if he didn't have the majority of Congress much on his side, and the dissidents in "intellectual" circles tended to react violently at the very mention of his name, he had a pretty fair ally in the majority of the American people.

Armed with that cozy knowledge, he went on, mostly alone, to assume some of the grimmest responsibilities ever faced by a man in the White House. Like Harry Truman before him he knew exactly where "the buck stopped" and, thankfully, acted accordingly.

It was pleasant to read about the President strolling through the capital streets the other night, taking his family to Trader Vic's for a quiet dinner out. Supercilious commentators immediately jumped on the incident as another Nixon ploy to once again "change his image."

Pretty petty picking, say I.

Here was a man, a husband and a father, who happens to be the most powerful individual in the world, just after having a fiercely awesome burden lifted from his shoulders and like any tired businessman simply wanting to share his relief with those closest to him. It's happened to all of us.

Of course the President feels warmer and more relaxed than he did a few months ago. But to accuse him of suddenly trying to reflect a new personality just for going out to a public restaurant for a change, can only come from those who think of him as an ogre because he likes professional football and makes phone calls to coaches.

What should we ask of a man, be he President or bricklayer? If he does what he told us he'd do and what we hoped he'd do, then American justice and sense of fair play demands we give him full credit for the deed. We should all give the President that.

Having said that, let's look at the Nixon domestic policy which is currently arousing the wolves. Sure, we can see a certain softness there but this department feels honestly it is due more to foreign preoccupations and necessities than to indifference. Not long ago, Barbara Tuchman, eminent historian and author (The Guns of August), suggested that the presidency was just too heavy for a single mind, and the responsibility should be divided as it is in many countries today. Maybe so, and it may be a subject for comment in this column sometime in the future.

But note this. Recently Sen. Vance Hartke (D.-Ind.) introduced a bill to assure disabled veterans of the full benefits previously awarded them by Congress, but reduced in the Nixon budget. A few days later, the President re-established those benefits summarily. Didn't he know about it? Had he reconsidered it? It doesn't matter. What counts is he reversed his own administration's recommendation to right an obvious error.

It occurs to me, too, that Nixon's tendency to ignore Congress too much is just a backlash of all the secret Vietnam negotiations imposed on him by Hanoi. He may have made a mistake in his refusal to deliver the State of the Union message to Congress, a refusal almost unprecedented in our history, but again, I'm inclined to blame it on the tensions of the peace talks more than some Nixonian desire for one-man rule. At any rate, it was a mistake on his part though I, for one, feel things will be reconciled between the executive and the legislative branches, or else there won't be much accomplished legislatively in the next four years.

Meanwhile, battered on the right for his visits to Peking and Moscow, battered on the left for his busing attitude, his Supreme Court nominations, etc., he has emerged a very impressive figure who holds great hope for America's future.

For the majority of us in the optimistic middle, I say—congratulations and thanks.

RULES OF THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, pursuant to section 133(b) of the Reorganization Act, I hereby report to the Senate for inclusion in the CONGRESSIONAL RECORD the rules adopted by the Senate Select Committee on Presidential Campaign Activities at its organizational meeting on Febrary 21, 1973. I ask unanimous consent that these rules be printed in the body of the RECORD in compliance with the statute cited above.

There being no objection, the rules were ordered printed in the RECORD, as follows:

1. Preliminary investigations may be initiated by the committee staff with the approval of the Chairman or at his direction.

2. Committee hearings or meetings shall be conducted by the Chairman or member designated by the Chairman.

3. The Chairman shall give each member written notice of the subject of and scope of any hearings 24 hours prior to the time such hearing is to begin within the District of Columbia; otherwise 48 hours prior thereto. No hearings shall then be held if any member objects unless upon the subsequent approval of the majority of the committee.

4. The Chairman shall have authority to call meetings of the committee which authority he may delegate to any other member. Members shall have at least 24 hours notice of any meeting of the committee within the District of Columbia; otherwise 48 hours prior thereto.

Should a majority of the members request the chairman in writing to call a meeting of the committee and should the Chairman fail to call such meeting within 10 days thereafter, such majority may call a meeting by filing a written notice with the Clerk who shall promptly notify each member of the committee in writing. If the Chairman is not present at any such meeting, and has not designated another member to conduct the meeting, the ranking majority member present shall preside.

5. A quorum for the transaction of committee business shall consist of a majority of the committee members. Unless otherwise specified in these rules, decisions of the committee shall be by a majority of votes cast. For the purpose of hearing witnesses, taking testimony, and receiving evidence, a quorum will consist of one Senator.

6. No person shall be allowed to be present during a hearing or meeting held in executive session except members and employees of the committee, the witness and his counsel, stenographers, or interpreters of the committee. Other persons whose presence is requested or consented to by the majority of the members of the committee present may be admitted to such sessions.

7. It shall be the duty of the clerk and staff director to keep or cause to be kept a record of all committee proceedings, including the record of votes on any matter on which a record vote is taken and of all quorum calls together with all motions, points of order, parliamentary inquiries, rulings of the chair and appeals therefrom. The record shall show those members present at each meeting. Such record shall be available

to any member of the committee upon request.

8. A vote by any member of the committee with respect to any measure or matter being considered by the committee may be cast by proxy providing the proxy authorization is in writing to the chairman, designating the person who is to execute the proxy authorization, and is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

9. Subpenas for attendance of witnesses and the production of memoranda, documents, and records may be issued by the chairman or any other member designated by him, and may be served by any person designated by such chairman or member.

10. Each subpena shall contain a statement of the Senate resolution authorizing the investigation with respect to which the witness is summoned to testify or to produce papers.

11. Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing, employ counsel should he so desire, and/or produce documents, books, record, memoranda, and papers called for by a subpena *duces tecum*. The committee shall determine, in each particular instance what period of time constitutes reasonable notice, however in no case shall it be less than 24 hours.

12. Except when publication is authorized by the chairman, no member of the committee or staff shall make public the name of any witness subpenaed before the committee or release any information to the public relating to a witness under subpena or the issuance of a subpena prior to the time and date set for his appearance.

13. All witnesses appearing before the committee, pursuant to subpena, shall be furnished a printed copy of the rules of procedure of the committee.

14. All witnesses at public or executive investigative hearings shall give all testimony under oath or affirmation which shall be administered by the chairman or a member of the committee.

15. No witness shall be compelled to testify under oath or affirmation at any committee hearing unless a quorum of the committee is present to receive such testimony. For the purpose of hearing witnesses, taking testimony, and receiving evidence, a quorum will consist of one Senator.

16. The time and order of interrogation of witnesses appearing before the committee shall be controlled by the chairman. Interrogation of witnesses at committee hearings shall be conducted by committee members and authorized committee staff personnel only.

17. Any objection raised by a witness or his counsel to procedures or to the admissibility of testimony and evidence shall be ruled upon by the chairman or presiding member and such rulings shall be the rulings of the committee, unless a disagreement thereon is expressed by a majority of the committee present. In the case of a tie, the rule of the chair will prevail.

18. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy of such statement with the counsel of the committee 24 hours in advance of the hearings at which the statement is to be presented, unless the chairman waives the requirement. All such statements or portions thereof so received which are relevant and germane to the subject of investigation may, at the conclusion of the testimony of the witness and with the approval of a majority of the committee members be inserted in the official transcript of the proceedings.

19. A witness may make a statement, which shall be brief and relevant to the subject matter of his examination, at the beginning and conclusion of his testimony. Each such statement shall not exceed three minutes unless an extension of time is authorized by the chairman. However, statements which take the form of personal attacks by the witness upon the motives of the committee, the personal character of any members of the Congress or of the committee staff, and intemperate statements, are not deemed to be relevant or germane, shall not be made, and may be stricken from the record of the proceedings.

20. All witnesses at public or executive hearings shall have the right to be accompanied by counsel. Any witness who desires counsel but who is unable to secure counsel may inform the committee at least 24 hours in advance of his appearance of his inability to retain counsel and the committee will endeavor to secure voluntary counsel for the witness. However, failure to secure counsel will not excuse the witness from appearing.

21. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing. The sole and exclusive prerogative of the counsel shall be to advise such witness while he is testifying of his legal rights and constitutional rights. Provided, however, that any Government officer or employee being interrogated by the staff or testifying before the committee and electing to have his personal counsel present shall not be permitted to select such counsel from the employees or officers of any government agency.

22. A witness shall not be excused from testifying in the event his counsel is not present or is ejected for contumacy or disorderly conduct; nor shall counsel for the witness coach the witness, answer for the witness, or put words in the witness' mouth. The failure of any witness to secure counsel shall not excuse such witness from attendance in response to subpena.

23. At the conclusion of the interrogation of his client, counsel shall be permitted to make such reasonable and pertinent requests upon the committee, including the testimony of other witnesses or presentation of other evidence, as he shall deem necessary to protect his client's rights. These requests shall be ruled upon by the committee members present.

24. Counsel for witnesses shall conduct himself in a professional, ethical, and proper manner. His failure to do so shall, upon a finding to that effect by a majority of the committee members present, subject such counsel to disciplinary action which may include warning, censure, removal of counsel from the hearing room, or a recommendation of contempt proceedings.

25. There shall be no direct or cross-examination by counsel appearing for a witness. However, the counsel may submit in writing any questions he wishes propounded to his client or to any other witness. With the consent of the majority of the members present, such question or questions shall be put to the witness by the chairman, by another member or by counsel of the committee either in the original form or in modified language. The decision of the committee as to the admissibility of questions submitted by counsel for a witness, as well as their form, shall be final.

26. Any person who is the subject of an investigation in public hearings may submit to the chairman questions in writing for the cross-examination of the witnesses. Their formulation and admissibility shall be decided by the committee in accordance with rule 25.

27. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by the committee member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the committee to testify on his own behalf, or, in the alternative; (b) file a sworn statement of facts relevant to the testimony, or other evidence or comment complained of. Such request and such statement shall be submitted to the committee for its consideration and action.

28. No testimony taken or material presented in an executive session, or any summary or excerpt thereof shall be made available to other than the committee members and committee staff and no such material or testimony shall be made public or presented at a public hearing, either in whole or in part, unless authorized by a majority of the committee members or as otherwise provided for in these rules.

29. No evidence or testimony, or any summary or excerpt thereof given in executive session which the committee determines may tend to defame, degrade, or incriminate any person shall be released, or presented at a public hearing unless such person shall have been afforded the opportunity to testify or file a statement in rebuttal, and any pertinent evidence or testimony given by such person, or on his behalf, is made a part of the transcript, summary, or excerpt prior to the public release of such portion of the testimony.

30. A complete and accurate stenographic record shall be made of all testimony at all public and executive committee hearings.

31. A witness shall, upon request, be given a reasonable opportunity before any transcript is made public to inspect in the office of the committee the transcript of his testimony to determine whether it was correctly transcribed and may be accompanied by his counsel during such inspection. If the witness so desires, the committee will furnish him a copy of his testimony, at no expense to the witness.

32. Any corrections in the transcription of the testimony of the witness which the witness desires to make shall be submitted in writing to the committee within 5 days of the taking of his testimony. However, changes shall only be made for the purpose of making minor grammatical corrections and editing, and not for the purpose of changing the substance of the testimony. Any questions arising with respect to such editing shall be decided by the chairman.

33. A copy of the testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense, if he so requests. Any witness shall be given a reasonable opportunity to inspect any such public testimony in the committee office.

34. Whenever the chairman so permits, any committee hearing that is open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography or by any other media coverage, provided that such coverage is orderly and unobtrusive.

35. The coverage of any hearing of the committee by television, radio, or still photography shall be under the direct supervision of the chairman, who may for good cause terminate such media coverage in whole or in part, or take such other action as the circumstances may warrant.

36. A witness may request, on grounds of distraction, harassment, or physical discomfort, that during his testimony, television, motion picture, and other cameras and lights shall not be directed at him, such requests to be ruled on by the committee members present at the hearing.

37. No witness served a subpena by the committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. So far as is practicable, a witness desiring to

make such a request shall so inform the chief counsel of the committee at least 24 hours prior to the time that witness is scheduled to testify.

38. No recommendation that a witness be cited for contempt of Congress shall be forwarded to the Senate unless and until the committee has, upon notice to all its members, met and considered the alleged contempt and by a majority of the committee voted that such recommendation be made.

39. All staff members shall be confirmed by a majority of the committee. After confirmation, the chairman shall certify staff appointments to the financial clerk of the Senate, in writing.

40. The minority shall select for appointment to the committee staff a chief counsel for the minority who shall, upon being confirmed, work under their supervision and direction; who shall be kept fully informed as to investigations and hearings, have access to all material in the files of the committee, and, when not otherwise engaged, shall do other committee work.

41. The chairman shall have the authority to utilize the services, information, facilities, and personnel of the departments and establishments of the government, and to procure the temporary or intermittent services of experts or consultants or organizations thereof to make studies or assist or advise the committee with respect to any matter under investigation.

42. Except as otherwise provided by the committee, the duties and responsibilities of permanent and special staff members shall be performed, and staff personnel affairs and day-to-day operations shall be administered, under the direct supervision and control of the staff director, who shall be responsible for providing timely effective, and economical staff services to the committee.

43. These rules may be modified, amended, or repealed by a decision of the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the respective action.

THE NEED FOR RAILROAD REFORM

Mr. RIBICOFF. Mr. President. It was not too long ago that the railroad dominated American economic life. The companies and their executives symbolized power and efficiency. Today's railroads symbolize the opposite—poor management, inefficiency, and a general lack of concern from the public.

I am pleased to join with Senator HARTKE as a cosponsor of the Essential Rail Services Act as a first step toward reversing this deteriorating trend. Under our proposal, a Northeast Rail Line Corporation would be established to purchase important railroad tracks and roadbeds in the Northeast. By relieving the railroads of this costly burden, we will place them on a more competitive basis with the trucking industry which has had use of public roads for years.

We presently have the technology to build extremely fast passenger and freight trains, but very few miles of track able to handle them. It will be a major task of the new corporation to upgrade the track to accommodate the rail service Europeans have had for years and Americans have a right to expect.

In my own State of Connecticut, train trips to New York City and back used to be relaxed and enjoyable affairs. Now you are lucky to even get a train. On the routes that remain, the trains are often late and the cars overcrowded with no heat in the winter and no air conditioning in the summer.

As bad as driving is in the New York metropolitan area, given the conditions of the trains, it is no surprise that millions of commuters take to the highways. This is of course a nationwide problem, but it is particularly acute in our northeastern States where dependable rail passenger service no longer exists.

The success of Amtrak's Metroliner between New York and Washington is proof that rail travel can still be a viable method of transportation. If offered reliable, economical, and relatively swift train service, the public has shown it will patronize it willingly. There is no reason why all of our urban areas cannot have similar service.

Before we can achieve that goal, we are first going to have to make some basic changes in our present public and private railroad policies.

First, we must realize that efficient rail passenger service is expensive and that if we really want it we will have to pay for it.

Second, the old concept of railroad ownership and management has failed and must be replaced with modern systems to meet today's needs.

Third, the present Federal regulatory apparatus, in particular the Interstate Commerce Commission, has failed to respond effectively to today's challenges and serious consideration should be given to abolishing it.

These suggestions may sound drastic, but I believe they are necessary. Amtrak, for example, is an excellent concept. But instead of actually running an independent rail passenger network. Amtrak is relying on the very railroads that failed to provide adequate service and made Amtrak necessary in the first place. If Amtrak is to succeed, it should rid itself of these subcontractors and run the entire system on its own.

The recently released staff report on the northeastern railroad crisis prepared for the Senate Commerce Committee fully documents the need for major changes in our present railroad structure. This country simply cannot afford to allow its passenger and freight train service to deteriorate. Yet under the old system of private management and Government regulation, the Nation's largest railroad was allowed to collapse and go into bankruptcy.

In a tragic way, the collapse of the Penn Central is a blessing in disguise. For years commuters in the northeast have known that the railroads were not doing their job efficiently or effectively. The shock of the Penn Central has, however, alerted the rest of the Nation to the need to review and revamp our entire rail transportation system. If Congress acts positively and promptly, America can once again have rail service it can be proud of.

SALOMON—DEVOTED ST. LOUISAN

Mr. SYMINGTON. Mr. President, in all probability, the private citizen of Missouri that Washington, D.C. knows best today is Sidney Salomon, Jr., of St. Louis.

Part of that is due to the latter's outstanding record in the Army Air Force during World War II, part also to his constructive efforts as assistant to Postmaster General Robert E. Hannegan and long and good and close friendship with the greatest of all Missourians, the late President Harry S Truman.

In the main, however, this recognition and admiration of Sid Salomon is because over the past quarter of a century his name has become synonymous with many efforts looking toward good government; that is, what would be best for his State and his country.

A recent editorial in the St. Louis Globe-Democrat, "Salomon—Devoted St. Louisan," gives further proof of the value of this outstanding American citizen to his own community. I ask unanimous consent that this editorial be included at the end of these remarks.

I also ask unanimous consent that an editorial on KMOX radio, St. Louis, entitled "Sidney Salomon's Leadership" be inserted at this point in the RECORD.

I also ask unanimous consent that an editorial from the St. Louis Review, "The Blues Score Again" be inserted at this point in the RECORD.

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

[From the St. Louis (Mo.) Globe-Democrat, Feb. 21. 1973]

SALOMON—DEVOTED ST. LOUISAN

Sidney Salomon Jr.'s decision on a proposed new downtown sports arena just south of Busch Stadium is another illustration of his great devotion to St. Louis and its people.

This newspaper has known Sid Salomon throughout his remarkable career and has seen at first-hand the many things that he has done to make St. Louis a better and more attractive city. It therefore put no credence in rumors that Salomon, president of the St. Louis Blues, might consider taking the hockey team out of the city.

Salomon has always been a prodigious worker for every cause he undertook. We remember him as the human dynamo who, as chairman of the Democratic fund-raising committee for the U.S. Senate and House candidates in 1954 and 1956, broke all records. He always has shown this same dedication in working for the city.

Hockey is the great sport it is in St. Louis today because Salomon had the vision and the energy to take a rundown property and turn it into a truly beautiful sports arena, and at the same time develop fanatical support for the St. Louis Blues.

It was completely in character for Salomon therefore to think in terms of helping the city he loves so much when considering a future location for the Blues.

Like virtually all of his decisions, we believe that he has made another great one in considering the location south of Busch Stadium. This is an ideal location and has both the land and the parking areas to support the proposed new $20 million arena.

The new Blues arena would complement Busch Stadium and give the city one of the best sports complexes in the country.

[Editorial of St. Louis (Mo.) Radio KMOX, Feb. 20, 1973]

What kind of a man does it take to keep an urban area thriving? What kind of leadership, what kind of courage, what kind of vision are required?

You could describe such a man in a hundred or even a thousand words. But for our part, we need only three: Sidney Salomon, Jr.

Yesterday a single incident dramatically illustrated the measure of the man who is president of the St. Louis Hockey Blues and it made us again know how fortunate we are to have such a leader here in St. Louis.

Mr. Salomon, like the rest of us, has been studying the proposal for a sports complex in St. Louis County. Senator Maurice Schechter of the county has proposed a bill for such a sports facility. The Senator asked Mr. Salomon about his future plans for the Blues—whether they will remain at their present location at the Arena.

Sidney Salomon's answer should make all of St. Louis proud of him. He told the Senator his club was prepared to stay at the Arena for many years, but would consider a move. And while he is still open-minded as far as the county is concerned, he hoped he could take part in efforts to build a modern sports complex in the downtown area, preferably at a site just south of Busch Stadium. He termed downtown St. Louis the "center of the St. Louis area" and mentioned that many East Side sports fans would be better served by a downtown location.

In Mr. Salomon's words "I personally would take a great deal of pride if in some small way my efforts in having a modern sports complex built in downtown St. Louis would assist those people working so hard to revive St. Louis and make it a progressive city.

Mr. Salomon considers his greatest achievements in life are "making the impossible possible." Perhaps the impossible can be accomplished again.

KMOX Radio salutes Sidney Salomon, Jr., his son Sid, III, and the Blues organization for this statesman-like stand. The president of the Blues has again shown he is a man big enough to think in area-wide terms—a man big enough to contribute in full measure to the entire metropolitan area.

THE BLUES SCORE AGAIN

It used to be that the businessman was personified as Ebenezer Scrooge, with a cash register for a heart. Only two wars ago, a mighty American could openly declare, "What's good for General Motors is good for the country." But the times are changing.

A recent Gallagher's Report shows that large numbers of businesses are setting up formal offices of corporate responsibility within their organizational structures. Their purpose is to examine all of the human considerations involving the company, its policies, its location, its product and the like. No one would claim that businessmen have suddenly decided to be in the business of world-saving. Primary corporate responsibility is still seen in terms of obligations to investors to make profits and to consumers to produce goods or products that are acceptable. Nevertheless, corporations are realizing more clearly their social role as the repository of much of the country's power and riches. Christians aware of the social encyclicals of the last century can only applaud this enlightened view of corporate responsibility.

Several St. Louis events of the past few months show such community concern. The announcement of the Mercantile Center, the new Boatmen's Bank, the intown Suburbia and south Mill Creek programs as well as the near South Side redevelopment all show the participation of business in needed social improvement.

So too, in a special way, does the announcement of Sidney Salomon Jr. that the Blues, should they move from the Arena, prefer a site in downtown St. Louis. The ownership of the Blues has shown itself quite capable not only as sportsmen, but as businessmen, and we are sure that its decision is made in the best interests of the club. Nevertheless it is worth noting that Mr. Salomon declared that he was also trying, in his "small way" to cooperate with the other people trying to make decisions with the best interests of the whole community in mind. As Dan Kelly would put it, "He scores!"—Father Edward J. O'Donnell

1973 INTERNATIONAL PANCAKE DAY RACE

Mr. DOLE. Mr. President, the International Pancake Day Race is one of the outstanding events to foster friendly interest between the people of the United States and our British neighbors across the Atlantic. Having its roots in ancient English tradition, the race between housewives of Olney, England and Liberal, Kans., has been held each year since 1950 and receives worldwide notice.

This year the 24th race and its related festivities will take place on March 6. The Kansas House of Representatives has adopted a resolution commemorating the occasion, and I ask unanimous consent that it be printed in the RECORD.

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

HOUSE RESOLUTION No. 1018

(A Resolution congratulating and commending the city of Liberal, Kansas, and citizens of Olney, England, on observance of the Traditional Pancake Day, urging members of the Legislature and public officials and employees of Kansas to attend the 24th annual observance of this International Pancake Day Race on March 6, 1973, and recommending that the annual event be continued.)

Whereas, The 24th Annual International Pancake Day Race will be held at Liberal, Kansas, on March 6, 1973; and

Whereas, This race has served a great purpose in promoting good will between the people of England and the State of Kansas and the United States; and

Whereas, This International Pancake Day Race between the housewives of Olney, England, and the housewives of Liberal, was originated and sponsored by the Liberal Junior Chamber of Commerce, beginning in 1950, has been held annually since, receives world wide publicity, promotes better understanding between the people of this country and other countries and has cemented friendships which have existed for years; and

Whereas, It is fitting that this Legislature should congratulate and commend the City of Liberal, and in particular, the various Junior Chambers of Commerce which worked so diligently to promote, sponsor and assure the annual success of this fine event, and further recommend that this International Pancake Day be continued as an annual affair: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to:

The Honorable Richard M. Nixon, President of the United States, Washington, D.C.

Her Majesty, Queen Elizabeth, British Empire, London, England

Members of the Kansas Congressional Delegation in Washington, D.C.

Honorable Robert B. Docking, Governor of Kansas

Honorable Merle Staats, Mayor, Liberal, Kansas

Canon Ronald B. Collins, Vicar of Olney, Bucks, England

Mr. Farris Bruce, President, Chamber of Commerce, Liberal, Kansas and to

Mr. Kenneth Pittman, President, Junior Chamber of Commerce, Liberal, Kansas.

JERRY WURF TESTIFIES ON BUDGET CUTS

Mr. MUSKIE. Mr. President, this morning the Subcommittee on Intergovernmental Relations heard excellent testimony on the impact of the President's budget from Jerry Wurf, international president of the 600,000-member American Federation of State, County, and Municipal Employees.

Mr. Wurf defined the basic questions we all must ask as we examine this budget: "The questions for Government are which services have priority? Who pays and how much? Which level of Government provides the service? Who sets the standards? How do we fulfill the obligation of Government to provide for the general welfare?" And he pointed out the results of a recent survey commissioned by his union which concluded that "a significantly larger percentage of Americans felt the most important way to keep the tax burden on the average taxpayer is to have corporations and wealthy persons pay a larger share rather than slow down Government spending."

I especially call attention to a public opinion analysis attached to Mr. Wurf's testimony which puts in perspective the President's assumption that the public is fed up with all Federal domestic programs. It is clear that a majority of Americans recognize a very positive Federal responsibility in dealing with very real problems.

Mr. President, I urge my colleagues to read Mr. Wurf's statement, and I ask unanimous consent that it be printed in the RECORD.

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

TESTIMONY OF JERRY WURF, INTERNATIONAL PRESIDENT, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENT RELATIONS, SENATE COMMITTEE ON GOVERNMENT OPERATIONS, FEBRUARY 28, 1973

Mr. Chairman, I welcome this opportunity to appear this morning as the Subcommittee on Intergovernmental Relations continues its hearings on the impact of the President's 1974 Budget on State and local governments.

The Union I represent has 600,000 members who work for State and local government bodies, as well as non-profit agencies and institutions. The membership of the Union includes the employees of all kinds of health care institutions, from aides and orderlies to physicians. We have law enforcement personnel and sanitation men, welfare workers and road maintenance crews, librarians and food service workers, engineers and recreation department employees, architects and toll takers and zookeepers—all of the people who perform the public services for State and local government.

We appear before you this morning to present in behalf of these people our views on the critical questions facing our system of federalism today.

The questions are not those of whether government should provide for needed services, for that mandate is clearly established.

The questions facing the Congress are not those of saving cities or developing rural areas . . . nor of aiding one group of people more than another . . . nor of helping the poor as opposed to the non-poor—although these are related matters.

The questions you are grappling with are those of providing for the people who elect you and pay the bill. These include the basic human services for which government in the United States assumes responsibility—ensuring public safety, caring for the ill and the aged and the weak, educating the young and the illiterate and the unskilled . . . .

As Walter Heller testified before this Subcommittee last week, the public is not against government spending. We will add testimony to that fact later in my statement.

The questions for government are which

services have priority? Who pays and how much? Which level of government provides the service? Who sets the standards? How do we fulfill the obligation of government to provide for the general welfare?

The responsibility of government to the people of this nation is clear. The issue today is how government meets this responsibility.

Whatever a person's needs in the way of public services, he probably has a grievance. The people reasonably want:

Simplified tax procedures and shorter waits for car license plates . . .

Better transportation and cleaner air . . .

Faster ambulance response and lower hospital costs . . .

Better street lighting and an efficient judicial system . . .

Decent neighborhood schools and meaningful adults education . . .

And safe places for the elderly to live.

The sad truth is that our basic public institutions are inadequate for their patients, inmates, clients and students.

This is true of our prisons, our schools, our hospitals, our buses and subways. Our public services simply do not meaure up to reasonable standards.

We had great beginnings in the 1960's to deal with these matters. Some say those efforts were utopian and did not fulfill their promise. But, those initiatives of the 1960's were legitimate, visible, and concrete actions by the people's government to serve the people's needs. The programs illustrated responsiveness and demonstrated concern.

War caused inflation, more than bureaucracy was responsible for many of the shortcomings. The war seems to be over and done, and we can turn to the needs of people at home.

The welcome achievement of peace and substantive initiatives toward a program of world wide detentes poses for government questions focusing on the people problems at home. The President, in his Budget messages, has opened a debate which may take on historic proportions. Seldom in our history has the Executive Branch so challenged the Congressional authority.

The President's challenge raises three fundamental questions:

First, Which branch of government determines national priorities? The President has challenged the ability of Congress to exercise its constitutional fiscal and legislative powers.

Second, Who is to pay? How do we most fairly levy taxes and how are those assessments most reasonably applied at each level of government? The Congress is challenged to review the imbalance of the revenue code. In essence, the archaic structure of the nation's fiscal systems puts the heaviest burden on those least able to pay and the lightest burden on those most able to pay.

Third, What level of government is best suited to determine the standards for public services? Who is to manage the programs? Will federally-funded programs require equal protection? Will they be measured by fair national standards? Will they provide for accountability to the people?

The President seems neither prepared nor willing to negotiate with the Congress on these fundamental questions. He claims a mandate. He ignores the Congress. The President represents the authority of the Executive Branch of government. Congress is and must remain the Legislative Branch.

The President claims the people want less spending for domestic programs. He has said, and I quote "Bigger government is the wrong way to meet our Nation's needs." The President's premise must be challenged.

I would like to submit for your Record a memorandum prepared for our Union by Mr. Albert H. Cantril, a recognized expert and authority in interpreting public opinion. Mr. Cantril has been consultant to the Bureau of the Budget and to the National Academy of Science.

Mr. Cantril's conclusions with regard to the public's views on federal expenditures hold one of the keys to how the Congress can effectively interpret and counter the President's budget strategy. Mr. Cantril's findings are based on recent polling data, some as recent as last month.

The Cantril study points out that in the 1972 Presidential campaign, when the voters rejected the Democratic nominee, they rejected a man not a program. There is clearly no "program" mandate for the winning Presidential candidate.

Secondly, the data shows the public's ambivalence on the proper role of the Federal Government. It is against federal spending described as "welfare" or "paternalism." However, over half of the public favored *increased* federal spending with respect to:

	Percent
Crime	77
Elderly-Social Security	74
Drugs and Drug Addicts	74
Clean Up Waterways-Water Pollution	64
Education of Low-Income Children	62
Reduce Air Pollution	61
Make College Education Possible For Young People Who Could Not Otherwise Afford It	54
Medicaid to Help Low-Income Families Pay Their Medical Bills	52
Programs to Rebuild Rundown Sections of Our Cities	51

Equally interesting are the responses to a question used to elicit views with regard to the most desirable way to redress tax burdens.

A significantly higher percentage of Americans felt the most important way to keep down the tax burden on the average tax payer is to have corporations and wealthy persons pay a larger share rather than slow down government spending.

There are several broad strategies the Congress can undertake to reassert its constitutional prerogatives.

When the President identified programs he supports for increased budget spending, he picked four of the top programs on the list—drugs, crime, health, and pollution. I do not fault the President on the selection of these domestic priorities. However, while funding slight increases in these programs he has made drastic cuts in virtually all other areas.

The Congress must not permit the debate to polarize around the simplistic question of cuts in federal spending versus a tax increase. The Congress must illustrate in specific human terms the real impact and the human costs of the Administrator's budget. Then, public understanding can be effectively focused and the people mobilized.

Mr. Chairman, your exchange with Office of Management and Budget Director Ash over the closing of the mental health clinic in Maine is the kind of illustration that is required. When specific projects are placed in human terms, no President and no Director of the Office of Management and Budget can adequately justify the cutbacks with slogans or cliches.

The debate must be joined around those programs where the public is willing to support increased federal expenditures. It is futile to debate about programs which clash head-on with the rhetoric of the "work ethic." The battle cannot be won with slogans of "save the cities," "war on poverty" and "welfare reform" but we can win the battle for the programs which are the substance of these slogans.

If we are to fund critical OEO programs, let it be to preserve health care and child centers, not to have a piece of rhetoric called the "poverty program."

How can the Congress respond to the President's challenge?

1. Congress must establish its right to direct program appropriations and set funding levels without impoundment, as well as the right to approve any reallocation of appropriated funds.

I urge support for Senator Ervin's bill prohibiting the impounding of funds unless the proposal has been submitted to and ratified by the Congress. The failure of the President to comply with such a law could provide a basis for clarifying the constitutional authority.

2. The taxing power of Congress, removed as it is from presidential fiat, should be used to direct public policy through tax credits, tax incentives, revision of tax rates, and the establishment of financing mechanisms for new health and income security programs. This is Congress' responsibility. This power, coupled with effective tax reform, can be used to establish national priorities. The President has the right to veto. That is power enough.

3. The general revenue sharing law already enacted can be used to provide the incentives to reduce the inequities of individual property taxes and stimulate the reform of State and local tax systems. We urge the Congress to base entitlements of State and local governments on their willingness to reform outmoded tax structures.

4. The Congress should accept the fact that programs aiding State and local governments can be consolidated and redirected—and this can be done in ways which will provide for the necessary protections and standards of performance.

As a matter of philosophy, our Union and the rest of the labor movement has traditionally favored federal aid provided within narrow federally-determined categories, and with federally-set standards. Last year, during the debate over general revenue sharing, our Union concluded that new aid was desperately needed and not possible under the specific grant-in-aid approach. Therefore, we supported general revenue sharing and devoted our efforts to ensuring adequate protections and standards within that legislation. We think the legislation that passed needs many improvements, but we are persuaded that it effectively satisfied many of the legitimate and critical financial needs that existed.

We suggest that efforts in this Congress to preserve categorical grant-in-aid programs on a piecemeal basis may fail. More aid in human resources programs is needed, and that need can be met in ways other than categorical grants. We urge that you explore these alternative means of delivering the money and sharply focus the issues on priorities and the level of spending—and not merely on preserving categorical grants. We believe that special revenue sharing and block grants can be acceptable alternatives. We are not tied to any one system of delivering aid. We believe that varying situations are deserving of varying responses.

The Congress can take leadership designing legislative packages that will focus public attention not on program titles or slogans, but on program priorities, standards, and funding levels. Here lie the issues of the 1970's.

5. The Congress can finance reordered national priorities within the parameters of the $12 billion deficit the President has proposed.

The President has claimed $14 billion in domestic program reductions or eliminations. Many of these programs deserve continued funding.

Additionally, we believe that the Congress should develop its own budget priorities to provide at least an additional $7 or $8 billion of appropriations for each of the next two fiscal years in key domestic areas.

These additional funds could come from both a reduction in specific military budget items, and through new revenues resulting from tax reform.

Specifically, I would assign the additional revenues in broad program categories of health care, education, housing, manpower and public service employment, environment, law enforcement and judicial and prison reform.

In summary, it is my belief that there is a critical need to adjust internal priorities generally within the limits of the President's proposed Budget deficit. The Congress is at a time of testing of its authority and must utilize all its power and ingenuity to achieve the restoration of its power to set national priorities and to establish a co-equal role in the budgetary and fiscal management of this nation.

I do not underestimate the difficulty of this struggle, but I am confident a majority of the American public support such efforts, and will respond if the choices are understandable in terms of human need and adequate community public services.

ALBERT H. CANTRIL,
February 15, 1973.

MEMORANDUM FOR JERRY WURF

Subject: Implications of the 1972 Elections

At your request I have reviewed available public opinion studies for clues as to the meaning of the 1972 elections. A number of major points stand out:

(1) The Presidential vote was a "negative landslide"—more a vote against George McGovern than for Richard Nixon. No one can argue that the President's inroads to bastions of Democratic strength were not impressive. He captured 36 percent of the Democratic vote—in absolute terms about ten million voters. He carried a majority among blue collar workers, nearly two-thirds of the self-proclaimed Independents and well over half of the Catholics.

Further, Mr. Nixon's winning coalition was more than a corralling of Governor Wallace's partisans. It has been suggested that adding the Governor's vote in 1968 (13.6 percent) to that for the President in 1968 (43.4 percent) yields the base of the 1972 Nixon margin. However, a Gallup Poll of mid-June (1972) belies this simplistic notion. It showed the President siphoning off only half of the Governor's support, the balance going either to the Senator or to the undecided column.

	With Wallace in (percent)	With Wallace out (percent)	Difference
Nixon	45	54	+9
McGovern	32	37	+5
Wallace	18		
Undecided	5	9	+4
Total	100	100	

Despite the size of the President's margin, the Democratic Party held its own at the state level. A net gain of eleven seats in the House. An increase to a fourteen-vote majority in the Senate, despite major GOP efforts to win control. A net gain of 11 governorships, yielding a 29–21 Democratic majority in the state houses. And 54 percent of the total congressional vote, compared to 51% in 1968.

In short, the President ran well ahead of his party. The Republicans carried 53.5 percent of the popular vote in the 33 Senate races. In those same states, the President carried 63 percent. In the 18 gubernatorial races, Republican candidates carried 49.7 percent of the total vote as against the President's showing of 63.4 percent in the same states.

A survey Charles Roll and I commissioned through the Gallup Organization in mid-October shows why so much ticket-splitting should have occurred. At the height of the campaign we found only 37 percent of the electorate supporting Nixon because they liked him. The remaining 25 percent of his supporters backed him largely because they did not want to see McGovern win.

This finding came out of a question asked of a national cross-section of registered voters. After the preference between the two candidates had been elicited, we asked: "Are you supporting the candidate you choose more because you especially like him and what he stands for, or more because you would hate to see the other man win?"

	Percent
Supported Nixon because:	
Liked him	37
Disliked McGovern	16
A little of both	9
Supported McGovern because:	
Liked him	18
Disliked Nixon	12
A little of both	8
	100

Thus for the most part Richard Nixon's "new American majority" was the creation of George McGovern. Anti-McGovern sentiment (amounting to a firm 16 percent with another nine percent less than enthusiastic about Nixon) was almost as great as the pro-McGovern sentiment. It was also greater than the anti-Nixon segment of the electorate (12 percent having a dislike for the President and another eight percent being qualified in their support).

(2) *The voters rejected McGovern, not all that he stood for.* Senator McGovern's problem was that he just did not appear "presidential" to the American people. In a poll conducted for *Newsweek* by the Gallup Organization in mid-August, a cross-section of the public was shown a list of words and phrases and asked to select those that best described each candidate. Consistently McGovern compared unfavorably. For example, the phrase "sticks to principles" was selected by 40 percent as describing Nixon and by only 17 percent as describing McGovern. Mr. Nixon had clearly been able to dispel much of the "tricky Dicky" legacy. The phrase "strong and forceful" drew 34 percent for Nixon and only 17 percent for McGovern. "Good judgment" was chosen by 30 percent as applying to the President and by only 11 percent as applying to Senator McGovern. On the negative side, the phrase "extremist" was pinned on McGovern by 20 percent as against only three percent for Nixon. Eighteen percent felt McGovern "makes snap decisions" in contrast to only nine percent for Nixon.

The bitterness of the irony was found in a survey conducted in late August showing that the President was perceived by the public as better able to handle even those focal issues McGovern tried to carve out for himself. For instance, in Miami Beach Senator McGovern had talked about "restoring government to the people." When it came to the problem of "making the government pay more attention to the problems of the working man and his family," we found 61 percent of the public expressed confidence in the President in comparison to only 43 percent for McGovern. The Senator also spoke of "coming home America from the entrenchment of special privilege." Again the Senator compared unfavorably: over half (52 percent) expressed confidence in Nixon on the matter of "keeping the big interests from having too much influence over the government" as against only 35 percent expressing confidence in McGovern.

The task of "reducing unemployment" was another on which McGovern lagged: 59 percent having confidence in Nixon and only 35 percent in the Senator. Even the issue that seemed to propel the McGovern campaign—Vietnam—worked to the President's advantage. Less than a third (29 percent) trusted McGovern when it came to "getting out of Vietnam honorably" as compared with 70 percent for Nixon.

However, despite Senator McGovern's non-presidential appearance to the voters, his defeat can in no way be construed as a defeat for many of the issues he pushed. That is, aside from issues like amnesty and busing, broad public support remains for many of the concerns McGovern articulated.

As early as May, my study for AFSCME picked up widespread agreement with the Senator's essentially populist appeal. We found 78 percent of the public agreeing that "the big special interests in this country have too much power and pretty much have their own way." Seventy-two percent agreed "too few of our nation's leaders understand what the average citizen would like to see done in this country."

And further, 60 percent agreed with the proposition that "there is not very much the average citizen can do to influence the way things are going in this country."

In my mid-October survey with Roll, four key issues were singled out on which the candidates were clearly divided. Without referring to the men by name, we juxtaposed the Nixon and McGovern positions and asked people which way they "leaned".

WAGE AND PRICE CONTROLS

	Percent
Wage and price controls have not worked because they are not tough enough on profits of corporations	57
Wage and price controls have begun to slow down the rising cost of living and are fair	29
No opinion	14
	100

TAXES

The most important way to keep down the taxes of the average taxpayer is to make large corporations and wealthy people assume a greater part of the tax burden	43
The most important way to keep down the taxes of the average taxpayer is to slow down spending for government programs	35
Both	14
No opinion	8
	100

TONE OF NATIONAL LIFE

Not enough attention is being paid to those things that are not working right in the U.S. today	42
There is too much talk about those things that are not working right in the U.S. today	47
No opinion	11
	100

DEFENSE SPENDING

We are spending more money on military defense programs than is necessary and we can cut back considerably on defense programs over the next few years without weakening our national security	39
Any further cuts in our defense spending would dangerously weaken our national security	48
No opinion	13
	100

On each of the four issues, support for Senator McGovern's view was significant.

(3) The public is ambivalent in its view of the proper place of the Federal Government. As the second Nixon term unfolds bold assumptions are being acted upon that the election returns indicate the American people are fed up with "paternalism", etc. "Ask not what government can do for you, ask what you can do for yourself. . . ."

On this range of issues, the public is clearly ambivalent. In a survey commissioned through the Gallup Organization just three weeks ago, two thirds (66 percent) of the public agreed with the statement: "We should hold the line of federal spending by cutting back on certain government programs—even those that many people think are important." In a similar vein, 79 percent agreed that "generally speaking, any able-bodied person who really wants to work in this country can find a job and earn a living."

The Nixon budget would appear on the surface to be in full keeping with these

findings. But the same survey found three-fourths (74 percent) also agreeing with the statement: "The federal government has a responsibility to try to do away with poverty in this country."

Further evidence of the ambivalence of the public on the issue is found in the recent book *State of the Nation* by William Watts and Lloyd Free. In it they report the results of a national survey conducted by Gallup in June 1972. Among the questions asked was one dealing with the public's willingness to see federal spending increased, kept at the present level, reduced or ended in each of a number of program areas. Over half of the public favored *increased* federal spending with respect to:

	Percent favoring an increase in spending
Programs to combat crime	77
Federal programs to help elderly people, for example, by increasing the social security payments they receive	74
Coping with the problem of narcotic drugs and drug addicts	74
Programs to clean up our waterways and reduce water pollution	64
Federal programs to improve the education of children from low-income families	62
Improving medical and health care for Americans generally	62
Programs to reduce air pollution	61
Federal programs to make a college education possible for young people who could not otherwise afford it	54
The medicaid program to help low-income families pay their medical bills	52
Programs to rebuild rundown sections of our cities	51

The ambivalence indicated by these results suggests that an earlier finding of Lloyd Free in 1964 might still be valid. In a national survey just prior to the 1964 election, Free presented respondents with two batteries of questions. One battery presented respondents with a series of propositions couched in essentially ideological terms: "the federal government is interfering too much in state and local matters"; "we should rely more on individual initiative and ability and not so much on governmental welfare programs"; and the like. The other battery consisted of questions referring to specific federal programs: "a broad general program of federal aid to education"; "a compulsory medical insurance program covering hospital and nursing care for the elderly"; etc.

At the ideological level, the public was predominantly opposed to an extensive role for the federal government. But at the level of specific programs, however, the public was overwhelmingly supportive of a strong federal role. Thus Free concluded: "While the old argument about the 'welfare state' has long since been resolved at the operational level of government programs, it most definitely has not been resolved at the ideological level."

This suggests part of the reason for Mr. Nixon's successes in his first term. He has talked like a "conservative" but not followed through literally by cutting back massively on federal programs. Now in his second term his budget seems to be in line with his rhetoric. This may be his undoing with the American public.

If this ambivalent mood still persists among the people, the President could well find strong opposition. This opposition can be developed only, however, by systematic efforts to bring the meaning of the President's budget home to the public—and bring it home in rather specific terms.

It will be difficult to mount effective public opposition if the debate about national priorities and the budget stays on the ideological level. The President should thus not be allowed to polarize simplistically the issue: cuts in federal spending or a tax increase.

If, on the other hand, the real cost of the President's program in human terms is clearly demonstrated, public opposition could be more readily mobilized. Senator Muskie's recent confrontation with OMB Director Ash is illustrative. The Senator, recently returned from Maine, reported that a health clinic in his state was being summarily closed for want of federal funds. Ash was hard put to come up with a satisfactory answer when the cost in human terms was spelled out explicitly.

However, it is crucial that the critique be developed primarily about those issues for which the public would be willing to see an increase in federal spending. This means: problems of the elderly, crime, drugs, pollution, education and medical care. It does *not* mean "welfare" programs, massive public housing programs, and those other isiues that confront the work ethic head on.

To put it another way: it would be difficult to mobilize a public outcry at the dismemberment of OEO; it would be possible to mobilize public concern about the termination of specific educational or medical programs within OEO.

The critique of the President's budget should be with regard to specifics, not broad generalities and philosophical questions about "the poor" or the role of the federal government.

RULES OF PROCEDURE OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. McGEE. Mr. President, at its organizational meeting on February 6, 1973, the Committee on Post Office and Civil Service adopted its rules of procedure. In accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, which requires the rules of each committee to be published in the CONGRESSIONAL RECORD no later than March 1 of each year, I ask unanimous consent that the rules of the committee be printed at this point in the RECORD.

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

RULES FOR COMMITTEE PROCEDURE

Rule 1. Five members of the Committee shall constitute a quorum for the transaction of such business as may be considered at any regular or special meeting of the Committee, except that, for the sole purpose of taking testimony, sworn to or otherwise, a quorum of the Committee, or a subcommittee thereof, shall be one or more Senators. No members of the Committee shall, for the purpose of determining existence of a quorum of the Committee, be deemed to be present unless he be personally present.

Rule 2. Unless otherwise ordered and notice given, the Committee shall meet for the transaction of its business while the Congress is in session as follows: The second and fourth Tuesdays of the month at 10:00 a.m. Additional meetings may be called by the Chairman as he may deem necessary.

Rule 3. The Committee shall keep a complete record of all Committee actions. Such record shall include a record of the votes on any question on which a record vote is demanded.

Rule 4. No vote cast in the Committee or any subcommittee by proxy shall be counted; but a written communication from an absent member, giving a clear statement of position on the specific subject, shall be counted as a vote.

Rule 5. It shall be the duty of the Chairman to report or cause to be reported promptly 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.

Rule 6. The Committee shall, as far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony at least 24 hours before hearing, and to limit their oral presentations to brief summaries to their argument. The Committee staff shall prepare digests of such statements for the use of Committee members.

Rule 7. All hearings conducted by the Committee, or its subcommittees, shall be open to the public, except (1) executive sessions for marking up bills, or (2) for voting, or (3) where the Committee, by a majority vote, orders an executive session.

Rule 8. When a nomination for an appointment is referred to the Committee, the name of the nominee shall be referred to both Senators from the State in which the nominee resides. If no objection is made by either Senator within 30 days of the date of referral or if no response is received during that period, the nomination shall be considered as not having been contested.

Rule 9. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be reported to the whole Committee by a subcommittee, there shall be placed before the whole Committee a print of the statute to be amended or the part thereof to be repealed (together with the citation thereof), showing by stricken-through type the portion or parts to be omitted, and in italics the matter proposed to be added.

Rule 10. The Chairman may name standing or special subcommittees to which a bill, resolution, or nomination may be referred, which subcommittee shall consist of not less than three members, one of whom shall be of the minority; if the subcommittee consists of five members, two shall be of the minority; if the subcommittee consists of seven members, three shall be of the minority.

Rule 11. Whenever a subcommittee delays in reporting more than 30 days (except when time is extended by the Committee), the matter may be withdrawn by the Chairman and submitted to another subcommittee, or considered by the whole Committee.

Rule 12. Subject to statutory requirements imposed on the Committee with respect to its procedure, the Rules of the Committee may be changed or suspended at any time; provided, however, that not less than two-thirds of the entire membership so determine, at a regular meeting with notice of the nature of the change proposed or meeting called for that purpose.

Rule 13. The Chairman of the Committee and the ranking minority member shall be ex officio members of all subcommittees with full right to participate in all proceedings thereof, and shall be allowed to vote as members of any subcommittee.

Rule 14. The Chairman shall be given authority to appoint the staff members and clerical assistants to assist the Committee in its work; provided, that the ranking minority member of the Committee shall be given authority to select one professional staff member and one clerical assistant. The Chairman shall select the official reporter or reporters to serve the Committee.

Rule 15. Meetings of the Committee shall be open to the press except (1) executive meetings to consider nominations for public office, or (2) when otherwise directed by the Chairman or majority vote of members present. The Chairman may grant or deny the privilege of broadcasting meetings of the full Committee. The Chairman of any subcommittee shall have the same power with respect to such subcommittee.

Rule 16. Proceedings in executive sessions of subcommittees may be released to the press and other interested parties unless the subcommittee chairman or a majority of members present otherwise direct.

EULOGY ON PRESIDENT LYNDON JOHNSON

Mr. NELSON. Mr. President, history, especially recent history, is a very subjective study. Most of us standing too close to the events and the people involved can only view it as it affected us, as we remember it, how we felt, and whether we disagreed or agreed.

The memory of Lyndon Johnson again presents that difficulty. He was magnificently controversial as only great men can be controversial. One could not be ambivalent about the man as Senator, Vice President, or President. Even though he was an accomplished politician who was a master of compromise, he was nonetheless, a man of strong convictions who made the tough, hard decisions when it was necessary to make them.

My personal feelings about him range as broadly today as they did when he was President. We differed completely on the war, and that was a major difference. But I was proud to support his social legislation and be part of an exciting period of legislative history.

Since his death, it has been observed that Johnson will be remembered in history as one of the great Presidents, especially in the area of social legislation.

Even though I can only give a very subjective observation, I feel that Johnson was one of the great Presidents of this Nation and that his record on social legislation will be difficult to equal.

I have not accustomed myself to the fact that he is dead and that we can no longer call on the experience of his years in Government. The Nation has been cheated by his untimely death. The world lost a compassionate man who did all the things we all do and was human at a time when too few political leaders are human by choice or expectation.

RAILROAD RIGHT-OF-WAY MAINTENANCE

Mr. CASE. Mr. President, I am glad to join in sponsoring S. 1031 designed to relieve northeastern railroads of the costs of right-of-way maintenance, and to improve rail carrier operations in our region of the country.

While there are aspects of this bill, including the provisions for protection of railroad workers, that may need improvement, I support the concept of a quasi-public agency to own, rehabilitate and manage railroad rights-of-way in the Northeastern United States.

At the same time, I believe that in return for this assistance, there must be some assurance that the railroads will improve their poor performance in the movement of people and of goods.

The bill, as originally drafted, requires the Secretary of Transportation to advise Congress, within 2 years, as to how the industry and its management are performing. But the bill stops short of requiring that the Secretary go beyond this and do something if he is dissatisfied with what he finds.

My amendment overcomes this deficiency at least in the Northeast. Under my proposal, the Secretary, based upon his evaluation, will be required to recommend whether any or all of the rail carrier operations within the corporation's jurisdiction should be taken over by the corporation, or by local government agencies.

My amendment is an essential ingredient of this bill, for it warns the railroads that the public will be looking for an improvement in their performance in return for right-of-way maintenance.

I am glad Senator HARTKE, chief sponsor of the bill, agreed to incorporate my proposal in the measure he has introduced.

NEWS SOURCE PROTECTION ACT

Mr. EAGLETON. Mr. President, on February 15 I introduced the News Source Protection Act (S. 870) because I believe it is essential that we take steps to instill confidence in news sources that they can rely on a newsman's promise of confidentiality.

I am very pleased to have Senator CLARK of Iowa as a cosponsor of S. 870. Senator CLARK has taken an active issue in this question of news source protection, writing to newsmen in his State of Iowa for their views on shield legislation and testifying before the Constitutional Rights Subcommittee this week.

I ask unanimous consent that Senator CLARK's testimony and excerpts from some of the replies he received from newsmen in Iowa be printed in the RECORD.

STATEMENT OF SENATOR DICK CLARK

Mr. Chairman: It is a pleasure and a privilege for me to appear before your subcommittee this morning, this is my first year in the Senate, and this is the first time that I have appeared before any subcommittee as a witness. Given the importance of this area, given the importance of your work, I could not have found a better place to begin.

Our Bill of Rights guarantees Freedom of the Press, and for good reason. The gathering and reporting of information about our Government and our public officials is essential to the preservation of the basic integrity of our political system. Increasingly, however, newsmen are being threatened by court decisions and other pressures which restrict their ability to perform this vital function.

Because of this, I wrote last month to the newspaper editors and radio and television news directors in Iowa, asking them for their assessment of the need for shield legislation and their opinions on the various bills being proposed.

Their replies, which I would like to enter into the record of the proceedings, indicate a deep concern. They have also shown me that we, as lawmakers, may be faced with a "damned if you do, damned if you don't" situation in trying to correct it.

On the one hand, enacting any form of shield law carriers grave risks.

Drake Mabry, assistant managing editor of the Des Moines, Iowa, Tribune, summed it up this way: "I've always felt it somewhat dangerous to put into law any expansion, regardless of how well-meaning, to what has always been considered a basic right, constitutional or otherwise. This always opens up the possibility for later changes, through amendments, that will further weaken and take away these rights, although the original sponsors were trying to protect them."

In other words, here, as in every human endeavor, the major problem is the intentions of those in power, not institutions or laws themselves. And we cannot legislate intentions.

On the other hand, unless we move now to enact new safeguards, we may well see the freedom of the press weakened and perhaps taken away because of the strength of current threats against it.

"If a newsman cannot protect sources, it's a cinch he won't get the facts," the editorial writers of Waterloo, Iowa's KWWL–TV said in a recent editorial, "and that means (the public) won't get them either."

Clearly, there are no easy alternatives before us.

In the last analysis, however, I feel that an absolute shield law is the choice that we must make. Favored by the vast majority of the Iowa newsmen who answered by inquiry, such a law seems to offer the best chance for a meaningful solution to the current situation and the least likelihood of being subverted or perverted in the future.

The fewer the qualifications a shield law carries, the fewer will be the possibilities for the law to be turned into a sword at some later date.

The language of such a law should be as explicit as possible, with definitions and procedures clearly set forth. The law should protect anyone engaged in the gathering of news, whether he or she is a full-time employee or not. It should require hearings on the admissibility of information being sought before subpoenas can be issued. It should cover State and Federal courts as well as governmental investigative bodies.

Of the bills now under consideration, only Senator Eagleton's S870 meets these criteria, and it does so admirably, I would therefore urge its passage.

Mr. Chairman, I would like your permission to submit the statements of Iowa journalists in the hearing record.

Thank you.

EXCERPTS FROM LETTERS FROM IOWA NEWSMEN ON NEWSMEN'S SHIELD LEGISLATION

Drake Mabry, Assistant Managing Editor, Des Moines Tribune:

"I've always felt it somewhat dangerous to put into law any expansion, regardless of how well-meaning, to what has always been considered a basic right, constitutional or otherwise. This always opens up the possibility for later changes, through amendments, that will further weaken and take away these rights, although the original sponsors were trying to protect them.

Thomas K. Bauer, News Director, KSUI (University of Iowa) Iowa City:

"As I see it the question is, 'Do the advantages of a shield law at this time seem to outweigh the disadvantages of no law?' There are several disadvantages to having no law. Reporters are fair game and in season and a few are going to jail. Some sources may dry up instead of running the risk of being identified. And the news media is in the position of becoming an investigative arm of government instead of the public. The evidence seems to indicate the answer to the question is yes."

David L. Fox, Director of News and Public Affairs, KLEU, Waterloo:

"Most of us in broadcast news feel we are fighting a delaying battle against an octopus of controls . . . one which keeps wrapping more of its tentacles around us. Protection of our confidential sources would at least delay the battle."

Jack Thomsen, New Director, WOC, Davenport:

"I feel that absolute protection is the only answer, since any opening or loophole left in the legislation ultimately passed will surely be seized upon and used to bypass the original intent. I, along with many of my colleagues with whom I have spoken, feel that there is a concerted drive underway to intimidate and weaken the media with an ultimate goal of making it a tool of or fully answerable to the government."

Editorial writers of KWWL, Waterloo, Robert Buckmaster, President:

"On the face of it, such a law might seem to protect the press rather than the public. In fact, it is the other way around. We believe that it is more important that the public have the facts than that the courts have the sources. If a newsman cannot protect sources, it's a cinch he won't get the facts; and that means [the public] won't get them either.

Robert H. Spiegel, Editor, Globe-Gazette, Mason City:

"Sources must be protected in instances of genuine investigative reporting or the sources will dry up, or their economic future could be threatened, or, in extreme cases, their lives could be in jeopardy. . . . I'm sorry we have come to this position, but the continued interference with what I consider to be valid investigative reporting as in the Caldwell case, has made some sort of shield law necessary."

Patrick Maloney, Managing Editor, Decorah Newspapers, Decorah:

"I feel that the protection should be absolute, because any qualifications would only weaken the protection, and lead to further attempts to dilute it. Most journalists are college-trained professionals with a dedication to a high code of ethics, and hopefully also the Ten Commandments, and could be expected to act responsibly in any situation where a qualification might be desirable."

James A. Hermen, Publisher, The Elgin Echo, Elgin:

. . . I believe that the newmen's right to refuse to reveal confidential information and the source thereof must be maintained. Denial of the right could be drastically detrimental to the primary purpose and function of the news media, dissemination of news and information to the public."

THE OTTER TAIL DECISION: A BEACON FROM THE SUPREME COURT

Mr. McGOVERN. Mr. President, on Thursday of last week the Supreme Court of the United States handed down a landmark decision that affirmed the findings of the U.S. District Court for the District of Minnesota that Otter Tail Power Co. had violated the Sherman Act in certain of its actions against small, municipal electric utilities.

This is an encouraging development for those who have labored long and hard to preserve a small element of competition in the otherwise monopolistic electric utility industry. It is good news for the small towns of South Dakota, North Dakota, and Minnesota which own and operate their own electric utility systems and for those communities which are exploring the feasibility of doing so.

The Nation's 2,000 municipal and other local, publicly owned electric utilities are in the best traditions of free enterprise and local control in which this Republic prides itself. In my own State of South Dakota, 34 communities own and operate their own electric systems, to the substantial benefit of their electric consumers and to their municipal general funds.

The decision of the Supreme Court in the Otter Tail case will have a healthy effect on the operations of these utilities, and, indeed, on all small consumer-owned electric utilities, and a helpful effect on their efforts to work together and to work with other utilities in developing jointly owned power supply facilities. The decision will assist the progress already being made toward elimination of duplicating transmission facilities in many parts of the Nation.

The decision is certainly good news to the residents of Aurora and Colman, S. Dak., who had to withstand years of pressure and legal challenge by the Otter Tail Co. before they were successful in their efforts to establish their own electric distribution systems.

From the day that I entered Congress as a Member of the House of Representatives in 1957, there has been a conflict between the investor-owned utilities and the consumer-owned utilities in the Upper Missouri River Basin. The investor-owned utilities have steadfastly refused to deal, except on terms which are advantageous to their own interests, with the small consumer-owned utilities.

In the early years of the hydroelectric power sales program of the Missouri River Basin project, investor-owned utilities in the upper Midwest refused to wheel Federal power to cooperatives, municipal utilities, and other publicly owned agencies. When Basin Electric Power Cooperative began producing power in North Dakota in the early 1960's the companies refused at first to wheel that power to basin's member cooperatives. Most of that early intransigence has been replaced by a spirit of, if not trust, at least nervous cooperation.

The Otter Tail decision, hopefully, will put that sort of acrimony behind us. When similar instances arise in the future, the Supreme Court's decision will make it clear that a company that enjoys a substantial monopoly over transmission cannot use that monopoly power to weaken its competitors or potential competitors. In other words, it will be clear that such companies are required under the Sherman Act to make their transmission services available to all, as they have done in the past only to a selected few.

Such conflict has not been good for the consumer, and it has not been good for the taxpayer. The State of South Dakota has, for years, had to pay unduly high rates for electric service at some of its buildings and institutions around the State. This situation persisted despite the fact that the State of South Dakota, as a preference customer under the Pick-Sloan Missouri River Basin project, had an allocation of low-cost Federal power from the Bureau of Reclamation. The allocation was worthless to the State, however, because it was unable to get the power from the Bureau of Reclamation's transmission system to many of its institutions. Some of the companies involved simply refused to wheel that power for the State of South Dakota, choosing instead to keep the State institution as a captive retail customer, at high rates.

It is pleasing to note that 2 weeks ago, even before the Otter Tail decision, the State and one of the companies involved reached agreement for wheeling of Bureau power to State institutions. Hopefully the Otter Tail decision will preclude any repetition of this unfortunate record of nearly 20 years of added cost to the taxpayers of South Dakota, or the taxpayers of any State in which a simliar situation may arise.

Perhaps a more significant long range effect of the Court's decision will be, in the words of Alex Radin, general manager of the American Public Power Association, "the development of a more rational and effective power supply system" and the "beginning of better coordinated regional planning for needed generation and transmission facilities."

It is my hope that the Otter Tail decision will have an immediate effect on better coordinated regional planning in the Upper Missouri River Basin, where one set of electric utilities is proposing one sort of power planning scheme, and another set of utilities is working in a different direction.

I speak of the Mid-Continent Area Power Pool—MAPP—an organization of investor-owned utilities with a few rural electric generating cooperatives, two large public power districts, and a few municipal utilities, which is proposing a regionwide power pool with many restrictive provisions.

The terms of the MAPP pool agreement, filed for approval with the Federal Power Commission, are being challenged as unnecessarily restrictive, by more than 90 small municipal and cooperative utilities, many of them in my State. The claim of the challengers is that the MAPP pool agreement vests all the decisionmaking power in northern States and its large power company allies, many of whom enjoy substantial monopoly positions in their respective marketing areas, as did Otter Tail in the case decided by the Court. It is interesting to note that Otter Tail has decided not to become a signatory to the MAPP pool agreement, but that the United States of America has joined, through its Bureau of Reclamation.

It is my hope that the Supreme Court's decision will cause the Federal Power Commission to take a much harder look at the possible anticompetitive provisions of the MAPP pool agreement, and cause the writers of that agreement to restudy their own position on barring the small, consumer-owned utilities from any effective voice in the operations of that pool.

Mr. President, the Supreme Court's decision is historic. Because it deserves wider circulation and greater understanding, I ask unanimous consent that it be printed in the RECORD, along with a press release from the American Public Power Association, and analytical articles on the decision from the New York Times and the Baltimore Sun.

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

[Supreme Court of the United States]

SYLLABUS—OTTER TAIL POWER CO. v. UNITED STATES

APPEAL FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

(No. 71-991—Argued December 5, 1972—Decided February 22, 1973)

In this Sherman Act suit, brought by the Government, the District Court enjoined as violative of § 2 the following practices in which appellant, Otter Tail Power Co. (Otter Tail), engaged to prevent towns from establishing their own power systems when Otter Tail's retail franchises expired; refusals to wholesale power to the municipal systems or transfer ("wheel") it over Otter Tail's facilities from other sources, litigation in-

tended to delay establishment of municipal systems, and invocation of transmission contract provisions to forestall supplying by other power companies. *Held:*

1. Otter Tail is not insulated from antitrust regulation by reason of the Federal Power Act, whose legislative history manifests no purpose to make the antitrust laws inapplicable to power companies. The essential thrust of the authority of the Federal Power Commission (FPC) is to encourage voluntary interconnections. Though the FPC may order interconnections if "necessary or appropriate in the public interest" antitrust considerations, though relevant under that standard, are not determinative. Pp. 5–7.

2. The District Court's decree does not conflict with the regulatory responsibilities of the FPC. Pp. 7–9.

(a) The court's order for wheeling to correct Otter Tail's anticompetitive and monopolistic practices is not counter to the authority of the FPC, which lacks the power to impose such a requirement. Pp. 8–9.

(b) Appellant's argument that the decree overrides FPC's power over interconnections is premature, there being no present conflict between the court's decree and any contrary ruling by the FPC. P. 9.

3. The record supports the District Court's findings that Otter Tail—solely to prevent the municipal systems from eroding its monopolistic position—refused to sell at wholesale or to wheel, and that Otter Tail to the same end invoked restrictive provisions in its contracts with the Bureau of Reclamation and other suppliers, the court correctly concluding that such provisions, *per se*, violated the Sherman Act. Pp. 9–11.

4. The District Court should determine on remand whether the litigation that Otter Tail was found to have instituted for the purpose of maintaining its monopolistic position was "a mere sham" within the meaning of *Eastern Railroad Conference* v. *Noerr Motor Freight*, 365 U.S. 127, so that the litigation would lose its constitutional protection in line with the Court's decision in *California Motor Transport Co.* v. *Trucking Unlimited*, 401 U.S. 508, which was decided after the District Court had entered its decree. Pp. 11–12.

5. The District Court's retention of jurisdiction to afford the parties "necessary and appropriate relief" provides an adequate safeguard against the possibility that compulsory interconnection or wheeling might threaten Otter Tail's ability adequately to serve the public. Pp. 12–14.

331 F. Supp. 54, affirmed in part and vacated and remanded in part.

Douglas, J., delivered the opinion of the Court, in which Brennan, White, and Marshall, JJ., joined. Stewart, J., filed an opinion concurring in part and dissenting in part, in which Burger, C. J., and Rehnquist, J., joined. Blackmun and Powell, JJ., took no part in the consideration or decision of the case.

OTTER TAIL POWER CO., APPELLANT, v. UNITED STATES

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

In this civil antitrust suit brought by appellee against Otter Tail Power Company (Otter Tail), an electric utility company, the District Court found that Otter Tail had attempted to monopolize and had monopolized the retail distribution of electric power in its service area in violation of § 2 of the Sherman Act, 15 U.S.C. § 2. The District Court found that Otter Tail had attempted to prevent communities in which its retail distribution franchise had expired from replacing it with a municipal distribution system. The principal means employed were (1) refusals to sell power at wholesale to proposed municipal systems in the communities where it had been retailing power; (2) refusals to "wheel" power to such systems, that is to say to transfer, by direct transmission or displacement, electric power from one utility to another over the facilities of an intermediate utility; (3) the institution and support of litigation designed to prevent or delay establishment of those systems; and (4) the invocation of provisions in its transmission contract with several other power suppliers for the purpose of denying the municipal system access to other suppliers by means of Otter Tail's transmission systems.

Otter Tail sells electric power at retail in 465 towns in Minnesota, North Dakota, and South Dakota. The decree enjoins it from refusing to sell electric power at wholesale to existing or proposed municipal electric power systems in the areas serviced by Otter Tail and from refusing to "wheel" electric power over the lines from the electric power supplies to existing or proposed municipal systems in the area and from entering into or enforcing any contract which prohibits use of Otter Tail's lines to "wheel" electric power to municipal electric power systems or from entering into or enforcing any contract which limits the customers to whom and areas in which Otter Tail or any other electric power company may sell electric power.

The decree also enjoins Otter Tail from instituting, supporting or engaging in litigation, directly or indirectly against municipalities and their officals whch have voted to establish municipal electric power systems for the purpose of delaying, preventing or interfering with the establishment of a municipal electric power system. 331 F. Supp. 54. Otter Tail took a direct appeal to this Court under § 2 of the Expediting Act, 15 U.S.C. § 29; and we noted probable jurisdiction, 406 U.S. 944.

In towns where Otter Tail distributes at retail it operates under municipally granted franchises which are limited from 10 to 20 years. Each town in Otter Tail's service area generally can accommodate only one distribution system, making each town a natural monopoly market for the distribution and sale of electric power at retail. The aggregate of towns in Otter Tail's service area is the geographic market in which Otter Tail competes for the right to serve the towns at retail.[1] That competition is generally for the right to serve the entire retail market within the composite limits of a town and that competition is generally between Otter Tail and a prospective or existing municipal system. These towns number 510 and of those Otter Tail serves 91%, or 465.

Otter Tail's policy is to acquire when it can existing municipal systems within its service areas. It has acquired six since 1947. Between 1945 and 1970 there were contests in 12 towns served by Otter Tail over proposals to replace it with municipal systems. In only three—Elbow Lake, Minnesota, Colman, South Dakota, and Aurora, South Dakota—were municipal systems actually established. Proposed municipal systems have great obstacles; they must purchase their electric power at wholesale. To do so they must have access to existing transmission lines. The only ones available[2] belong to Otter Tail. While the Bureau of Reclamation has high voltage bulk power supply lines in the area, it does not operate a subtransmission network, but relies on "wheeling" contracts with Otter Tail and other utilities to deliver power for its bulk supply lines to its wholesale customers.[3]

The antitrust charge against Otter Tail does not involve the lawfulness of its retail outlets, but only its methods of preventing the towns it served from establishing their own municipal systems when Otter Tail's franchises expired. The critical events centered largely in four cities—Elbow Lake, Minnesota, Hankinson, North Dakota, Colman, South Dakota, and Aurora, South Dakota. When Otter Tail's franchise in each of these towns terminated, the citizens voted to establish a municipal distribution system. Otter Tail refused to sell the new systems energy at wholesale and refused to agree to wheel power from other suppliers of wholesale energy.

Colman and Aurora had access to other transmission. Against them Otter Tail used the weapon of litigation.

As respects Elbow Lake and Hankinson, Otter Tail simply refused to deal, although according to the findings it had the ability to do so. Elbow Lake, cut off from all sources of wholesale power, constructed its own generating plant. Both Elbow Lake and Hankinson requested the Bureau of Reclamation and various coops to furnish them with wholesale power; they were willing to supply it if Otter Tail would "wheel" it. But Otter Tail refused, relying on provisions in its contracts which barred the use of its lines for wheeling power to towns which it served at retail. Elbow Lake after completing its plant asked the Federal Power Commission under § 202(b) of the Federal Power Act, 16 U.S.C. § 824(b), to require Otter Tail to interconnect with the town and sell it power at wholesale. The Federal Power Commission ordered first a temporary[4] and then a permanent connection.[5] Hankinson tried unsuccessfully to get relief from the North Dakota Commission and filed a complaint with the federal commission seeking an order to compel Otter Tail to wheel. While the application was pending the town council voted to withdraw it and subsequently renewed Otter Tail's franchise.

It was found that Otter Tail instituted or sponsored litigation involving four towns in its service area which had the effect of halting or delaying efforts to establish municipal systems. Municipal power systems are financed by the sale of electric revenue bonds. Before such bonds can be sold, the town's attorney must submit an opinion which includes a statement that there is no pending or threatened litigations which might impair the value or legality of the bonds. The record amply bears out the District Court's holding that Otter Tail's use of litigation halted or appreciably slowed the efforts for municipal ownership. "The delay thus occasioned and the large financial burden imposed on the town's limited treasury dampened local enthusiasm for public ownership." 331 F. Supp. 54.

I

Otter Tail contends that by reason of the Federal Power Act it is not subject to antitrust regulation with respect to its refusal to deal. We disagree with that position.

"Repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored, and have only been found in cases of plain repugnancy between the antitrust and regulatory provisions." *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 350–351. See also *Silver* v. *New York Stock Exchange*, 373 U.S. 341, 357–361. Activities which come under the jurisdiction of a regulatory agency nevertheless may be subject to scrutiny under the antitrust laws.

In *California* v. *Federal Power Commission*, 369 U.S. 482, 489, the Court held that approval of an acquisition of the assets of a natural gas company by the Federal Power Commission pursuant to § 7 of the Natural Gas Act "would be no bar to [an] antitrust suit." Under § 7 the standard for approving such acquisitions is "public convenience and necessity." Although the impact on competition is relevant to the Commission's determination, the Court noted that there was "no 'pervasive regulatory scheme' including the antitrust laws that ha[d] been entrusted to the Commission." *Id.*, at 485. Similarly, in *United States* v. *Radio Corporation of America*, 358 U.S. 334, the Court held that an exchange of radio stations that had been approved by the Federal Communications Com-

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Footnotes at end of article.

mission as in the "public interest" was subject to attack in antitrust proceeding.

The District Court below determined that Otter Tail's consistent refusals to wholesale or wheel power to its municipal customers constituted illegal monopolization. Otter Tail maintains here that its refusals to deal should be immune from antitrust prosecution because the Federal Power Commission has the authority to compel involuntary interconnections of power pursuant to § 202(b) of the Federal Power Act. The essential thrust of § 202, however, is to encourage voluntary interconnections of power. See S. Rep. No. 621, 74th, Cong., 1st Sess., 19–20, 48–49; H. R. Rep. No. 1318, 74th Cong., 1st Sess., 8. Only if a power company refuses to interconnect voluntarily may the Federal Power Commission, subject to limitations unrelated to antitrust considerations, order the interconnection. The standard which governs its decision is whether such action is "necessary or appropriate in the public interest." Although antitrust considerations may be relevant, they are not determinative.

There is nothing in the legislative history which reveals a purpose to insulate electric power companies from the operation of the antitrust laws. To the contrary, the history of Part II of the Federal Power Act indicates an overriding policy of maintaining competition to the maximum extent possible consistent with the public interest. As originally conceived, Part II would have included a "common carrier" provision making it "the duty of every public utility to . . . transmit energy for any person upon reasonable request. . . ." In addition, it would have empowered the Federal Power Commission to order wheeling if it found such action to be "necessary or desirable in the public interest." H.R. 5423, 74th Cong., 1st Sess.; S. 1725, 74th Cong., 1st Sess. These provisions were eliminated to preserve "the voluntary action of the utilities." S. Rep. No. 621, 74th Cong., 1st Sess., 19.

It is clear, then, that Congress rejected a pervasive regulatory scheme for controlling the interstate distribution of power in favor of voluntary commercial relationships. When these relationships are governed in the first instance by business judgment and not regulatory coercion, courts must be hesitant to conclude that Congress intended to override the fundamental national policies embodied in the antitrust laws. See *United States* v. *Radio Corporation of America, supra,* at 351. This is particularly true in this instance because Congress, in passing the Public Utility Holding Company Act, which included Part II of the Federal Power Act, was concerned with "restraint of free and independent competition" among public utility holding companies. See 15 U.S.C. § 79a(b)(2).

Thus, there is no basis for concluding that the limited authority of the Federal Power Commission to order interconnections was intended to be a substitute for or immunize Otter Tail from antitrust regulation for refusing to deal with municipal corporations.

II

The decree of the District Court enjoins Otter Tail from "refusing to sell electric power at wholesale to existing or proposed municipal power systems in cities and towns located in its service area" and from refusing to "wheel" electric power over its transmission lines from other electric power lines to such cities and towns. But the decree goes on to provide:

"The defendant shall not be compelled by the Judgment in this case to furnish wholesale electric service or wheeling service to a municipality except at rates which are compensatory and under terms and conditions which are filed with and subject to approval by the Federal Power Commission."

So far as "wheeling" is concerned, there is no authority granted the Commission under Part II of the Federal Power Act to order it, for the bills originally introduced contained common carrier provisions which were deleted.[6] The Act as passed contained only the interconnection provision set forth in § 202(b).[7] The common carrier provision in the original bill and the power to direct "wheeling" were left to the "voluntary coordination of electric facilities." [8] Insofar as the District Court ordered "wheeling" to correct anticompetitive and monopolistic practices of Otter Tail there is no conflict with the authority of the Federal Power Commission.

As respects the ordering of interconnections there is no conflict on the present record. Elbow Lake applied to the Federal Power Commission for an interconnection with Otter Tail and as we have said obtained it. Hankinson renewed Otter Tail's franchise. So the decree of the District Court, as far as the present record is concerned, presents no actual conflict between the federal judicial decree and an order of the Federal Power Commission. The argument concerning the pre-emption of the area by the Federal Power Commission in this area concerns only instances which may arise in the future, if Otter Tail continues its hostile attitude and conduct against "existing or proposed electric power systems." The decree of the District Court has an open end by which that court retains jurisdiction "necessary or appropriate" to carry out the decree or "for the modification of any of the provisions." It also contemplates that future disputes over interconnections and the terms and conditions governing those interconnections will be subject to Federal Power Commission perusal. It will be time enough to consider whether the antitrust remedy may override the power of the Commission under § 202(b) as, if and when the Commission denies the interconnection and the District Court nevertheless undertakes to direct it. At present there is only a potential conflict, not a present concrete case or controversy concerning it.

III

The record makes abundantly clear that Otter Tail used its monopoly power in the cities in its service area to foreclose competition or gain a competitive advantage, or to destroy a competitor, all in violation of the antitrust laws. See *United States* v. *Griffith,* 334 U.S. 100, 107. The District Court determined that Otter Tail has "a strategic dominance in the transmission of power in most of its service area" and that it used this dominance to foreclose potential entrants into the retail arena from obtaining electric power from outside sources of supply. Use of monopoly power "to destroy threatened competition" is a violation of the "attempt to monopolize" clause of § 2 of the Sherman Act. *Lorain Journal* v. *United States,* 342 U.S. 143, 154, *Eastman Kodak Co.* v. *Southern Photo Materials, Co.,* 273 U.S. 359, 375. So are agreements not to compete, with the aim of preserving or extending a monopoly. *Schine Chain Stores* v. *United States,* 334 U.S. 110, 119. In *Associated Press* v. *United States,* 321 U.S. 1, a cooperative news association had bylaws that permitted member newspapers to bar competitors from joining the association. We held that that practice violated the Sherman Act, even though the transgressor "had not yet achieved a complete monopoly." *Id.,* at 13.

When a community, serviced by Otter Tail, decides not to renew its retail franchise when it expires, it may generate, transmit, and distribute its own electric power. We recently described the difficulties and problems of those isolated electric power systems. See *Gainesville Utilities* v. *Florida Power Coop.,* 402 U.S. 515, 517–520. Interconnection with other utilities is frequently the only solution. *Id.,* at 519, n. 3. That is what Elbow Lake in the present case did. There were no engineering factors that prevented Otter Tail from selling power at wholesale to those towns that wanted municipal plants nor of wheeling the power. The District Court found—and its findings are supported—that Otter Tail's refusals to sell at wholesale or to wheel were solely to prevent municipal power systems from eroding its monopolistic position.

Otter Tail relies on its "wheeling" contracts with the Bureau of Reclamation and with cooperatives which it says relieves it of any duty to wheel power to municipalities served at retail by Otter Tail at the time the contracts were made. The District Court held that these restrictive provisions were "in reality, territorial allocation schemes," 331 F. Supp., at 63, and were *per se* violations of the Sherman Act, citing *Northern Pacific R. Co.* v. *United States,* 356 U.S. 1. Like covenants were there held to "deny defendant's competitors access to the fenced-off market in the same terms as the defendant." *Id.,* at 12. We recently re-emphasized the vice under the Sherman Act of territorial restrictions among potential competitors. *United States* v.. *Topco Associates,* 405 U.S. 596, 624. The fact that some of the restrictive provisions were contained in a contract with the Bureau of Reclamation is not material to our problem, for as the Solilcitor General says, "government contracting officers do not have the power to grant immunity from the Sherman Act." Such contracts stand on their own footing and are valid or not depending on the statutory framework within which the federal agency operates. The Solicitor General tells us that these restrictive provisions operate as a "hindrance" to the Bureau and were "agreed to by the Bureau only at Otter Tail's insistence," as the District Court found. The evidence supports that finding.

IV

The District Court found that the litigation sponsored by Otter Tail had the purpose of delaying and preventing the establishment of municipal electric systems "with the expectation that this would preserve its predominant position in the sale and transmission of electric power in the area." [9] 331 F. Supp., at 62. The District Court in discussing *Eastern Railroad Conference* v. *Noerr Motor Freight, Inc.,* 365 U.S. 127, explained that it was applicable "only to efforts aimed at influencing the legislative and executive branches of the government." *Ibid.* That was written before we decided *California Motor Transport Co.* v. *Trucking Unlimited,* 404 U.S. 508, 513, where we held that the principle of *Noerr* may also apply to the use of administrative or judicial processes where the purpose is to suppress competition evidenced by repetitive lawsuits carrying the hallmark of insubstantial claims and thus within the "mere sham" exception announced in *Noerr.* 365 U.S., at 144. On that phase of the order we vacate and remand for consideration in light of our intervening decision in *California Motor Transport Co.*

V

Otter Tail argues that, without the weapons which it used, more and more municipalities will turn to public power and Otter Tail will go downhill. The argument is a familiar one. It was made in *United States* v. *Arnold, Schwinn & Co.,* 388 U.S. 365, a civil suit under § 1 of the Sherman Act dealing with a restrictive distribution program and practices of a bicycle manufacturer. We said: "The promotion of self-interest alone does not invoke the rule of reason to immunize otherwise illegal conduct." *Id.,* at 375.

The same may properly be said of § 2 cases under the Sherman Act. That Act assumes that an enterprise will protect itself against loss by operating with superior service, lower costs, and improved efficiency. Otter Tail's theory collides with the Sherman Act as it sought to substitute for competition anticompetitive uses of its dominant economic power.[10]

The fact that three municipalities which Otter Tail opposed finally got their munici-

Footnotes at end of article.

pal systems does not excuse Otter Tail's conduct. That fact does not condone the antitrust tactics which Otter Tail sought to impose. Moreover, the District Court repeated what we said in *Federal Trade Commission* v. *National Lead Co.*, 352 U.S. 419, 431 "those caught violating the Act must expect some fencing in." The proclivity for predatory practices has always been a consideration for the District Court in fashioning its antitrust decree. See *United States* v. *Crescent Amusement Co.*, 323 U.S. 173, 190.

We do not suggest, however, that the District Court, concluding that Otter Tail violated the antitrust laws, should be impervious to Otter Tail's assertion that compulsory interconnection or wheeling will erode its integrated system and threaten its capacity to serve adequately the public. As the dissent properly notes, the Commission may not order interconnection if to do so "would impair [the utility's] ability to render adequate service to its customers." 16 U. S. C. § 824a (b). The District Court in this case found that the "pessimistic view" advanced in Otter Tail's "erosion study" "is not supported by the record." Furthermore, it concluded that "it does not appear that Bureau of Reclamation power is a serious threat to the defendant nor that it will be in the foreseeable future." Since the District Court has made future connections subject to Commission approval and in any event has retained jurisdiction to enable the parties to apply for "necessary or appropriate" relief and presumably will give effect to the policies embodied in the Federal Power Act, we cannot say under these circumstances that it has abused its discretion.

Except for the provision of the order discussed in part IV of this opinion, the judgment is

Affirmed.

MR. JUSTICE BLACKMUN and MR. JUSTICE POWELL took no part in the consideration or decision of this case.

FOOTNOTES

[1] Northern States Power Co. also supplies some towns in Otter Tail's areas with electric power at retail. But the District Court excluded these towns from Otter Tail's area because the two companies do not compete in the towns served by each other. Of the 615 remaining towns in the area, 465 are served at retail by Otter Tail, 45 by municipal systems, and 105 by rural electric cooperatives. The cooperatives are barred by the Rural Electrification Act (7 U.S.C. § 904) from borrowing federal funds to provide power to towns already receiving central station service. For this and related reasons the District Court excluded the rural coops from the relevant market.

[2] Subtransmission lines, with voltages from 34.5 kv to 69 kv are used for moving power from the bulk supply lines to points of local distribution. Of Otter Tail's basic subtransmission system in this area, two-thirds of those lines are 41.6 kv subtransmission lines.

[3] The 38 distribution rural coops in Otter Tail's area generally own only low voltage distribution lines, which in most instances could not be used to supply power to proposed municipal utilities. The few rural coops that have generation and transmission services do not, it was found, cut significantly into Otter Tail's dominant position in subtransmission.

[4] *Elbow Lake* v. *Otter Tail Power Co.*, 40 F. P. C. 1262, aff'd, *Otter Tail Power Co.* v. *Federal Power Commission*, 429 F. 2d 232 (CA 8), cert. denied, 401 U.S. 947.

[5] *Elbow Lake* v. *Otter Tail Power Co.*, 46 F. P. C. 675.

[6] See S. Rep. No. 621, 74th Cong., 1st Sess.; H. R. Rep. No. 1318, 74th Cong., 1st Sess.; *Elbow Lake* v. *Otter Tail Power Co.*, 46 F. P. C. 675, 679.

[7] Section 202(b) provides: "Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility [if the Commission finds that no undue burden will be placed upon such public utility thereby] to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, that the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them."

[8] S. Rep., *supra*, n. 6, at 19.

[9] After noting that the "pendency of litigation has the effect of preventing the marketing of the necessary bonds thus preventing the establishment of a municipal system," 331 F. Supp., at 62, the District Court went on to find:

"Most of the litigation sponsored by the defendant was carried to the highest available appellate court and although all of it was unsuccessful in the merits, the institution and maintenance of it had the effect of halting, or appreciably slowing, efforts for municipal ownership. The delay thus occasioned and the large financial burden imposed on the town's limited treasury dampened local enthusiasm for public ownership. In some instances, Otter Tail made offers to the towns to absorb the towns' costs and expenses, and enhance the quality of its service in exchange for a new franchise. Hankinson, after several years of abortive effort, accepted this type of offer and renewed defendant's franchise." *Ibid.*

[10] The Federal Power Commission said in *Elbow Lake* v. *Otter Tail Power Co.*, 46 F. P. C. 675, 678:

"The public interest is far broader than the economic interest of a particular power supplier. It is our legal responsibility, as the Supreme Court made clear in *Pennsylvania Water & Power Co.* v. *FPC*, 343 U.S. 414 (1952), to use our statutory authority to assure an abundant supply of electric energy throughout the United States, and particularly to use our statutory power under Section 202(b) to compel interconnection and coordination when the public interest requires it. The exercise of that authority may well require, as it does here, that we order a public utility to interconnect with an isolated municipal system. The private company's lack of enthusiasm for the arrangement cannot deter us, so long as the public interest requires it."

OTTER TAIL POWER COMPANY, APPELLANT, v. UNITED STATES

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE and MR. JUSTICE REHNQUIST join, concurring in part and dissenting in part.

I join Part IV of the Court's opinion, which sets aside the judgment and remands the case to the District Court for consideration of the appellant's litigation activities in light of our decision in *California Motor Transport Co.* v. *Trucking Unlimited*, 404 U.S. 508. As to the rest of the Court's opinion, however, I respectfully dissent.

The Court in this case has followed the District Court into a misapplication of the Sherman Act to a highly regulated, natural monopoly industry wholly different from those that have given rise to ordinary antitrust principles. In my view, Otter Tail's refusal to wholesale power through interconnection or to perform wheeling services was conduct entailing no antitrust violation.

It is undisputed that Otter Tail refused either to wheel power or to sell it at wholesale to the towns of Elbow Lake, Minnesota, and Hankinson, North Dakota, both of which had formerly been its customers and had elected to establish municipally owned electric utility systems. The District Court concluded that Otter Tail had substantial monopoly power at retail and "strategic dominance" in the subtransmission of power in most of its market area.[1] 331 F. Supp. 54, 58–60. The District Court then mechanically applied the familiar Sherman Act formula: since Otter Tail possessed monopoly power and had acted to preserve that power, it was guilty of an antitrust violation. Nowhere did the District Court come to grips with the significance of the Federal Power Act, either in terms of the specific regulatory apparatus it established or the policy considerations that moved the Congress to enact it. Yet it seems to me that these concerns are central to the disposition of this case.

In considering the bill that became the Federal Power Act of 1935, the Congress had before it the report of the National Power Policy Committee on Public-Utility Holding Companies. That report chiefly concerned patterns of ownership in the power industry and the evils of concentrated ownership by holding companies. The problem that Congress addressed in fashioning a regulatory system reflected a purpose to prevent unnecessary financial concentration while recognizing the "natural monopoly" aspects, and concomitant efficiencies, of power generation and transmission. The report stated that "[w]hile the distribution of gas or electricity in any given community is tolerated as a 'natural monopoly' to avoid local duplication of plants, there is no justification for an extension of that idea of local monopoly to embrace the common control, by a few powerful interests, of utility plants *scattered over many States and totally unconnected in operation.*" S. Rep. No. 621, 74th Cong., 1st Sess., 55 (emphasis added).

The resulting statutory system left room for the development of economies of large scale single company operations. One of the stated mandates to the Federal Power Commission was for it to assure "an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources," 16 U.S.C. § 824a. In the face of natural monopolies at retail and similar economies of scale in the subtransmission of power, Congress was forced to address the very problem raised by this case—use of the lines of one company by another. One obvious solution would have been to impose the obligations of a common carrier upon power companies owning lines capable of the wholesale transmission of electricity. Such a provision was originally included in the bill. One proposed section provided that:

"It shall be the duty of every public utility to furnish energy to, exchange energy with, and transmit energy for any person upon reasonable request therefor. . . ." S. 1725, 74th Cong., 1st Sess., § 213.

Another proposed provision was that:

"Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a public utility to make additions, extensions, repairs, or improvements to or changes in its facilities, to establish physical connection with the facilities of, sell energy to, purchase energy

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Footnotes at end of article.

from, transmit energy for, or exchange energy with, one or more other persons." [2] *Ibid.*

Had these provisions been enacted, the Commission would clearly have had the power to order interconnections and wheeling for the purpose of making available to local power companies wholesale power obtained from or through companies with subtransmission systems. The latter companies would equally clearly have had an obligation to provide such services upon request. Yet, after substantial debate,[3] the Congress declined to follow this path. As the Senate report indicates in discussing § 202 as enacted:

"[t]he committee is confident that enlightened self-interest will lead the utilities to co-operate with the commission and with each other in bringing about the economies which can alone be secured through the planned coordination which has long been advocated by the most able and progressive thinkers on this subject.

"When interconnection cannot be secured by voluntary action, subsection (b) gives the Commission limited authority to compel inter-state utilities to connect their lines and sell or exchange energy. The power may only be invoked upon a complaint by a State commission or a utility subject to the act." S. Rep. No. 621, 74th Cong., 1st Sess., 49.

This legislative history, especially when viewed in the light of repeated subsequent congressional refusals to impose common carrier obligations in this area,[4] indicates a clear congressional purpose to allow electric utilities to decide for themselves whether to wheel or sell at wholesale as they see fit. This freedom is qualified by a grant of authority to the Commission to order interconnection (but not wheeling) in certain circumstances. But the exercise of even that power is limited by a consideration of the ability of the regulated utility to function. The Commission may not order interconnection where this would entail an "undue burden" on the regulated utility. In addition the Commission has

". . . no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers." 16 U. S. C. § 824a(b).

As the District Court found, Otter Tail is a vertically integrated power company. But the bulk of its business—some 90% of its income—derives from sales of power at retail. Left to its own judgment in dealing with its customers, it seems entirely predictable that Otter Tail would decline wholesale dealing with towns in which it had previously done business at retail. If the purpose of the congressional scheme is to leave such decisions to the power companies in the absence of a contrary requirement imposed by the Commission, it would appear that Otter Tail's course of conduct in refusing to deal with the municipal system at Elbow Lake and in refusing to promise to deal with the proposed system at Hankinson, was foreseeably within the zone of freedom specifically created by the statutory scheme.[5] As a retailer of power, Otter Tail asserted a legitimate business interest in keeping its lines free for its own power sales and in refusing to lend a hand in its own demise by wheeling cheaper power from the Bureau of Reclamation to municipal consumers who might otherwise purchase power at retail from Otter Tail itself.

The opinion of the Court emphasizes that Otter Tail's were not simple refusals to deal—they resulted in Otter Tail's maintenance of monopoly control by hindering the emergence of municipal power companies. The Court cites *Lorain Journal* v. *United States*, 342 U.S. 143, for the proposition that "[u]se of monopoly power 'to destroy threatened competition' is a violation of the 'attempt to monopolize' clause of § 2 of the Sherman Act." This proposition seems to me defective. *Lorain Journal* dealt neither with a natural monopoly at retail nor with a congressional approved system predicated on the existence of such monopolies. In *Lorain Journal*, a newspaper in Lorain, Ohio, used its monopoly position to discourage advertisers from supporting a nearby radio station seen by the newspaper to be a competitor. The theory of the case was that competition in the communications business was being foreclosed by the newspaper's exercise of monopoly power. Here, by contrast, a monopoly is sure to result either way. If the consumers of Elbow Lake receive their electric power from a municipally owned company or from Otter Tail, there will be a monopoly at the retail level, for there will in any event be only one supplier. The very reason for the regulation of private utility rates—by state bodies and by the Commission—is the inevitability of a monopoly that requires price control to take the place of price competition. Antitrust principles applicable to other industries cannot be blindly applied to a unilateral refusal to deal on the part of a power company, operating in a regime of rate regulation and licensed monopolies.

The Court's opinion scoffs at Otter Tail's defense of business jurisdiction. *United States* v. *Arnold Schwinn & Co.*, 388 U.S. 365, is cited for the proposition that "[t]he promotion of self-interest alone does not invoke the rule of reason to immunize otherwise illegal conduct." This facet of the Court's reasoning also escapes me in the case before us, where the health of power companies and the abundance of our energy supply were considerations central to the congressional purpose in devising the regulatory scheme. As noted above, the Commission is specifically prohibited from imposing interconnection requirements that are unduly burdensome or that interfere with a public utility's ability to serve its customers efficiently. The District Court noted that Otter Tail had offered "a so-called 'erosion study'" documenting the way in which its business would suffer if it were forced to wholesale and wheel power to municipally owned companies. The District Court gave little credence to the report's predictions. "But regardless," the court went on, "even the threat of losing business does not justify or excuse violating the law." 331 F. Supp. 54, 64–65. This question-begging disregard of the economic health of Otter Tail is wholly at odds with the congressional purpose in specifying the conditions under which interconnections can be required.

This is not to say that Otter Tail's financial health is paramount in all instances,[6] or that the electric power industry as regulated by the Commission is *per se* exempted from the antitrust laws. In the absence of a specific statutory immunity, cf. *Hughes Tool Co.* v. *Trans World Airlines*, —— U.S. ——, such exemptions are not lightly to be implied, *United States* v. *Philadelphia National Bank*, 374 U.S. 321. Furthermore, no sweeping antitrust exemption is warranted, as it has been in cases involving certain pervasively regulated industries, under the doctrine of "primary jurisdiction." [7] Cf. *United States* v. *R.C.A.*, 358 U.S 334, 346–352 *See Far East Conference* v. *United States*, 342 U.S. 570; *Terminal Warehouse Co.* v. *Pennsylvania R. Co.*, 297 US. 500; *United States Navigation Co.* v. *Cunard S. S. Co.*, 284 U.S. 474; *Keogh* v. *Chicago & N. W. R. Co.*, 260 U.S. 156; *Texas & Pacific R. Co.* v. *Abilene Cotton Oil Co.*, 204 U.S. 426; cf. *Carnation Co.* v. *Pacific Westbound Conference*, 383 U.S. 213. Our duty in attempting to reconcile the Federal Power Act with the Sherman Act on the facts of the case before us requires a judgment regarding the "character and objectives" of the regulatory scheme and the extent to which they "are incompatible with the maintenance of an antitrust action." *Silver* v. *New York Stock Exchange*, 373 U.S. 341, 358. "Repeal [of the antitrust laws] is to be regarded as implied only if necessary to make the . . . [Act] work, and even then only to the minimum extent necessary." *Id.*, at 357.

With respect to decisions by regulated electric utilities as to whether or not to provide nonretail services, I think that in the absence of horizontal conspiracy, the teaching of the "primary jurisdiction" cases argues for leaving governmental regulation to the Commission instead of the invariably less sensitive and less specifically expert process of antitrust litigation. I believe this is what Congress intended by declining to impose common carrier obligations on companies like Otter Tail, and by entrusting the Commission with the burden of "assuring an abundant supply of electric energy throughout the United States" and with the power to order interconnections when necessary in the public interest. This is an area where "sporadic action by federal courts" *can* "work mischief." Cf. *United States* v. *R. C. A.* 358 U.S 334, 350.[8]

Even assuming that Otter Tail's refusals to wholesale or wheel power to Elbow Lake and Hankinson were colorably within the reach of the antitrust laws, I cannot square the opinion of the Court with our recent decision in *Ricci* v. *Chicago Mercantile Exchange*, —— U.S. ——. Otter Tail's refusal to wholesale or wheel power to Elbow Lake was the subject of two concurrent proceedings—one in the District Court, and an other in the Federal Power Commission. It seems to me that the principles of *Ricci*, related to but not identical with the traditional doctrine of "primary jurisdiction," should require a District Court in a case like this one to defer to the Commission proceeding then in progress. Surely the regulatory authority of the Commission with respect to interconnection is at least as substantial as the responsibility of the Commodity Exchange Commission, in *Ricci*, for the implementation of reasonable membership practices by its regulated contract markets. *Id.*, at —— (dissenting opinion of MARSHALL, J.). The responsibility of the Commission for "assuring an abundant supply of electric energy throughout the United States" and its authority to order compulsory wholesaling satisfy the three criteria enunciated in *Ricci* for a deferral of antitrust jurisdiction to an administrative agency: (1) that the court must first decide whether the conduct complained of, in light of the regulatory statute, is immune from the antitrust laws; (2) that "some facets of the dispute" are "within the statutory jurisdiction" of the agency; and (3) "that adjudication of that dispute . . . promises to be of material aid in resolving the immunity question." *Id.*, at —.

With respect to the last of the *Ricci* criteria, it is useful to contrast the cursory treatment given to Otter Tail's business justification defense by the Court today with the opinion of the Commission ordering permanent interconnection:

". . . we cannot disagree with the Examiner's view that Elbow Lake has engaged in 'an ill-advised excursion into the power business.' Given the facts of record before us, it is plain that Elbow Lake's effort has not brought it the rewards it expected; indeed, its first year of operations, during which it perpetuated the rates formerly charged by Otter Tail, resulted in a financial loss. Unlike Otter Tail's earlier service to Elbow Lake, Elbow Lake's own system is of doubtful reliability, as evidenced by its presence before us now. . . . While it is our responsibility to take all possible steps to insure to Elbow Lake's customers a high standard of service reliability, our terms and conditions must not invite improvident ventures elsewhere.

Footnotes at end of article.

"We also share the Examiner's view that Otter Tail is legitimately concerned about the possible erosion of its system. If other communities were to follow Elbow Lake's route, and if, having miscalculated the results, they could expect to be rescued by overly generous interconnection terms, then Otter Tail's fears that it will lose its customers, seriatim, seem to us to be supported. We do not mean by this that we accept a captive market concept, however. . . . The exercise of that [statutory] authority may well require, as it does here, that we order a public utility to interconnect with an isolated municipal system." *Village of Elbow Lake* v. *Otter Tail Power Co.*, 46 F.P.C. 675, 677–678.

The opinion of the Court attempts to side-step the *Ricci* problem by noting that the Commission has in fact ordered interconnection with Elbow Lake, resulting in the absence of a present actual conflict with the decree entered by the District Court. The Court goes on vaguely to suggest that there will be time to cope with the problem of a Commission refusal to order interconnection which conflicts with this antitrust decree when such a conflict arises.

But the basic conflict between the Commission's authority and the decree entered in the District Court cannot be so easily wished away. The decree enjoins Otter Tail from "refusing to sell electric power at wholesale to existing or proposed municipal electric power systems in cities and towns located in any area serviced by Defendant." [9] This injunction is qualified by a provision that such wholesaling be done at "compensatory" rates and under "terms and conditions which are filed with and subject to approval by the Federal Power Commission." The setting of rates, terms, and conditions, however, is but part of the Commission's authority under § 202(b), 16 U.S.C. § 824a(b). The Court's decree plainly ignores the Commission's authority to decide *whether* involuntary interconnection is warranted under the enunciated statutory criteria. Unless the decree is modified, its future implementation will starkly conflict with the explicit statutory mandate of the Federal Power Commission.

Both because I believe Otter Tail's refusal to wheel or wholesale power was conduct exempt from the antitrust laws and because I believe the District Court's decree improperly pre-empted the jurisdiction of the Federal Power Commission, I would reverse the judgment before us.

FOOTNOTES

[1] The District Court looked to Otter Tail's service area, and measured market dominance in terms of the number of towns within that area served by Otter Tail. Computed this way, Otter Tail provides 91% of the retail market. 331 F. Supp. 54, 59. As the appellant points out, however, these towns vary in size from more than 29,000 people to 20 inhabitants. If Otter Tail's size were measured by actual retail sales, its market share would be only 28.9% of the electricity sold at retail within its geographic market area. It is important to note that another reasonable geographical market unit might be each individual municipality. Viewed this way, whichever power company sells electricity at retail in a town has a complete monopoly.

[2] Both of these provisions had identical counterparts in H.R. 5423, 74th Cong., 1st Sess.

[3] Hearings on S. 1725 before the Senate Committee on Interstate Commerce, 74th Cong., 1st Sess. (1935); Hearings on H.R. 5423 before the House Committee on Interstate and Foreign Commerce, 74th Cong., 1st Sess. (1935).

[4] See, *e.g.*, S. 350 and H. R. 2101, 88th Cong., 1st Sess., providing that:

"Any certificate issued under the provisions of this subsection authorizing the operation of transmission facilities shall be subject to the condition that any capacity of such facilities not required for the transmission of electric energy in the ordinary scope of such applicant's business shall be made available on a common carrier basis for the transmission of other electric energy."

This bill was re-introduced as S. 1472 and H. R. 2072 in the 89th Congress, 1st Session, and also failed to pass. See also S. 2140 and H. R. 7791, 89th Cong., 1st Sess.

These bills were all re-introduced in the 90th Congress, as was H. R. 12322, proposing an Electric Power Reliability Act that would have specifically provided the Commission with authority to order wheeling. In the 91st Congress, bills to establish an Electric Power Reliability Act were again introduced. Section 3 of that proposed Act included a grant of authority for the FPC to order wheeling, see, *e.g.*, S. 1071, 91st Cong., 1st Sess. Yet another bill, H. R. 12585, 91st Cong., 1st Sess., included a very broad provision establishing open access to transmission networks at reasonable rates.

The proposed Electric Power Reliability Act was re-introduced in the 92d Congress, 1st Session, as S. 294, H. R. 605. H. R. 12585 from the 91st Congress was also re-introduced, as H. R. 6972, 92d Cong., 1st Sess. Still another bill would have prevented proposed regional bulk power supply corporations from contracting with an electric utility unless that utility "permit[s] . . . the use of its excess transmission capacity for the purpose of wheeling power from facilities of such corporation . . . to load centers of other electric utilities contracting to purchase electric power from such corporation." S. 2324, H. R. 9970, 92d Cong., 1st Sess., § 103(c)(1)(B). None of these bills were enacted.

[5] The District Court was persuaded that the restrictions on wheeling contained in Otter Tail's contracts with the Bureau of Reclamation were "in reality, territorial allocation schemes." 331 F. Supp. 54, 63. I think this finding was clearly erroneous. Territorial allocation arrangements that have run afoul of the antitrust laws have traditionally been horizontal, and have involved the elimination of competition between two enterprises that were similarly situated in the market. *United States* v. *Topco Associates*, 405 U.S. 596; *Timken Roller Bearing Co.* v. *United States*, 341 U.S. 593; cf. *White Motor Co.* v. *United States*, 372 U.S. 253, 261–264, Otter Tail and the Bureau of Reclamation stand in a vertical, not a horizontal relationship. Furthermore, though Otter Tail refused to wheel power to towns whose consumers it formerly served at retail, it did not exact from the Bureau a promise that the latter would not provide power to such towns by alternative means. Hence I cannot see how these contracts operate as territorial allocation schemes. If Otter Tail had demanded that the Bureau not sell to former Otter Tail customers, or if Otter Tail had combined with other retailers of electricity and undertaken mutual noncompetition agreements, this would be a different case.

[6] In ordering permanent interconnection between Otter Tail and the Village of Elbow Lake municipal system, for example, the FPC correctly noted that, "The public interest is far broader than the economic interest of a particular power supplier. . . . The private company's lack of enthusiasm for . . . [the interconnection order] cannot deter us, so long as the public interest requires it" *Village of Elbow Lake* v. *Otter Tail Power Co.*, 46 F.P.C. 675, 678.

[7] The Federal Power Commission, as noted above, only orders interconnection under the provisions of § 202(b), 16 U. S. C. § 824a (b), though it has broader powers in times of war or other emergency. 16 U. S. C. § 824a (c). The Commission does not normally set rates, though utilities subject to its jurisdiction must file proposed rate schedules with it, and it it has the opportunity of assessing the lawfulness of those rates. 16 U. S. C. § 824d. In the event the Commission concludes that any rate or practice is "unjust, unreasonable, unduly discriminatory or preferential," it determines the "just and reasonable rate. . . ." 16 U. S. C. § 824e(a). Under these same provisions, the Commission regulates the terms and conditions of interconnections and wheeling arrangements voluntarily entered into.

The resulting system of regulation is thus more comprehensive than the regulatory apparatus applicable to bank mergers which was held to be insufficient to oust antitrust jurisdiction in *United States* v. *Philadelphia National Bank*, 374 U. S. 321, and the regulatory scheme with respect to broadcasters which similarly failed to displace the antitrust laws in *United States* v. *R. C. A.*, 358 U. S. 334. Nevertheless, the considerable freedom allowed to electric utilities with respect to coordination of service persuades me that the antitrust laws apply to the extent they are not repugnant to specific features of the regulatory scheme. For this reason, litigation and political activities that come within the so-called "sham" exception in *California Motor Transport Co.* v. *Trucking Unlimited*, *supra*, might constitute an antitrust violation. Similarly, a genuine territorial allocation might be prohibited under the Sherman Act, see n. 5, *supra*. Were it not for the legislative history noted above, a consistent refusal to deal with municipally owned power companies might also be impermissible under the Sherman Act. For me, however, the legislative history with respect to wheeling and interconnection is dispositive.

[9] Unlike the situation presented in *R. C. A.*, *supra*, where the regulatory agency filed a brief in this Court disavowing any conflict between its regulatory functions and the operation of the antitrust laws, *id.*, at 350, n. 18, in this case the Federal Power Commission has taken the unusual step of filing a brief as *amicus curiae* in support of Otter Tail. The Commission points out that it was considering an application for interconnection filed by the Town of Elbow Lake at the same time this lawsuit was progressing in the District Court. An order requiring long-term interconnection by Otter Tail with the Elbow Lake municipal system was entered by the Commission on September 13, 1971—just four days after the District Court entered judgment. The Commission reads its authority to order interconnection, 16 U.S.C. § 824a, as a grant of exclusive jurisdiction in matters involving interconnection.

[9] The decree of the District Court is unreported.

[APPA press release]

HIGH COURT POWER DECISION HAILED AS VICTORY FOR PUBLIC INTEREST

WASHINGTON, February 22.—Today's decision of the U.S. Supreme Court upholding the conviction of a midwestern electric power company for violation of Federal antitrust laws was hailed by a public power spokesman as "a major victory for the public interest."

Alex Radin, general manager of the American Public Power Association, said that both consumers and the environment will benefit from the ruling which upheld a lower court finding that Otter Tail Power Co. of Fergus, Falls, Minn., violated antitrust laws in its dealings with municipal electric systems in Minnesota and North and South Dakota. The High Court action affirmed a Sept. 1971, decision of the U.S. District Court in St. Paul, Minn., in which chief judge Edward J. Devitt upheld allegations brought by the U.S. Department of Justice that the company had used illegal tactics in seeking to prevent the establishment of municipal systems in several communities.

The Justice Department, in a complaint signed by then-Attorney General John N. Mitchell, had charged that Otter Tail sought to monopolize the sale of electric power in 464 towns in its three-state service area by seeking to bar municipal competition by re-

fusing to sell or deliver electricity at wholesale to municipal utilities.

Terming the Supreme Court decision "one of the most important and far-reaching in the history of the electric industry," APPA general manager Radin said, "It will aid utilities and the general public by making possible the development of a more rational and effective power supply system."

Mr. Radin explained that the Supreme Court "has made it clear that anti-competitive practices of private power companies in refusing to sell or transmit electricity to consumer-owned utilities are unlawful under the antitrust laws," and, thus, "Publicly owned electric utilities are insured the right to access to economical power sources available to others."

Under today's decision, Mr. Radin said, "Where a community decides to supply its own electricity instead of allowing a private company to perform this function, a boycott cannot be employed to prevent citizens from implementing their decision."

He said that the result of the Supreme Court ruling "will be a termination of the bulk power supply monopoly enjoyed by some companies and the beginning of better coordinated regional planning for needed generation and transmission facilities."

"Beneficiaries will be consumers and the environment," Mr. Radin declared.

The decision upheld the verdict of the District Court which had enjoined Otter Tail Power from engaging in activities which violated the Sherman Antitrust Act in seeking to block the formation of municipal electric utilities.

In Elbow Lake, Minn., the company delayed operation of a municipal utility for several years after it had been voted by the people of the village, not only by refusing to sell wholesale power to the community but also by refusing to deliver Federal power from Bureau of Reclamation projects over its transmission lines. In 1966, the village purchased two diesel engines and commenced operation of an isolated municipal system.

Evidence presented by the Justice Department in the District Court trial also covered the company's successful efforts to bar the establishment of municipal electric systems in Finley and Hankinson, N.D., and its unsuccessful campaigns in Colman and Aurora, S.D., where power was delivered to the municipal systems by a rural electric cooperative.

[From the Baltimore Sun, Feb. 23, 1973]

CITY-OWNED UTILITIES WIN SUPREME COURT CASE

(By Dean Mills)

WASHINGTON.—The Supreme Court gave a boost yesterday to municipally owned utilities by ruling, 4 to 3, that private electric power companies can be prevented from blocking the flow of wholesale electricity to publicly owned ones.

Experts in the field immediately predicted that the decision, upholding a United States District Court ruling in Minnesota, would encourage more cities across the country to take over their own electric systems.

QUESTION LAID TO REST

"Any question which existed prior to this that a private utility could refuse to deal with a public one, in the way they have in the past, has been laid to rest by this case," an official in the Federal Power Commission said.

Alex Radin, general manager of the American Public Power Association, said he was "elated" by the decision and called it "one of the most important and far-reaching in the history of electric energy."

Increasing numbers of cities, believing they can save the money paid out in dividends to investor-owned systems and wanting firmer control of utility policies, have been interested in taking over their own systems in the last few years, he said, but have been blocked by private companies' determination to hold on to their retail franchises.

SERVE 78 PERCENT OF PEOPLE

There are about 300 private power companies in the country, serving 78 per cent of the population. Two thousand small municipal systems serve another 14 per cent, and rural co-operatives the rest.

In the Minnesota case, the Otter Tail Power Company was accused by the government of violating the Sherman Antitrust Act by refusing to sell electricity at bulk, or wholesale, rates to four communities that wanted to go public. The company serves 465 communities in Minnesota, South Dakota and North Dakota.

Otter Tail also unlawfully refused to transmit bulk power from other suppliers over its lines, the government charged, and tried through litigation to block the new municipal companies from buying power under any circumstances.

"The record makes abundantly clear," Justice William O. Douglas wrote for the majority, "that Otter Tail used its monopoly power in the cities in its service area to foreclose competition or gain a competitive advantage, or to destroy a competitor, all in violation of the antitrust laws."

Otter Tail's claims that it was exempt from antitrust regulation by virtue of its regulation by the Federal Power Commission are in conflict with previous Supreme Court decisions on the relationship between antitrust laws and regulatory agencies, Justice Douglas wrote.

Justice Potter Stewart drafted the dissent, in which Chief Justice Warren E. Burger and Justice William H. Rehnquist joined. Mr. Stewart charged that the court "followed the District Court into a misapplication of the Sherman Act to a highly regulated, natural monopoly industry wholly different from those that have given rise to ordinary antitrust principles."

ILLINOIS TAX RULING

Justices Harry A. Blackmun and Lewis F. Powell, Jr., took no part in the case.

In other opinions handed down yesterday, the court:

Decided unanimously that the state of Illinois can continue to apply a personal property tax to corporations while exempting individuals. The high court ruling reversed a finding by the Illinois Supreme Court that the law denied equal protection of the laws to corporations.

Ruled, 5 to 4, that the Hobbs Act, designed to prevent extortion by labor racketeers, cannot be used to punish violence by union members in the pursuit of legitimate union objectives.

The majority held, in upholding the dismissal by a lower court of an indictment against four men charged with destroying property during a strike against the Gulf States Utility Company in Louisiana, that such violence can be punished only under ordinary state laws.

[From the New York Times, Feb. 23, 1973]

HIGH COURT FINDS UTILITY SUBJECT TO ANTITRUST LAWS

(By Warren Weaver Jr.)

WASHINGTON, February 22.—The Supreme Court decided today that private power companies could not escape antitrust prosecution for monopoly by claiming they could only be regulated by the Federal Power Commission.

By a 4-to-3 vote, the high court held that an electric company in the North Central states could be required to sell and transmit power to communities in its area that decided to operate public systems of their own.

The American Public Power Association called the decision "one of the most important and far reaching in the history of the electric industry" and predicted it would lead to development of "a more rational and effective power supply system."

The case involved the Otter Tail Power Company, which sells electricity retail to 465 towns in Minnesota and North and South Dakota but refused to sell power wholesale or transmit it from another source to communities that decided to convert to municipal systems.

Associate Justice William O. Douglas, who wrote the majority opinion, was joined by Justices William J. Brennan, Byron R. White and Thurgood Marshall. The minority consisted of Associate Justice Potter Stewart, who wrote the opinion, Chief Justice Warren E. Burger and Justice William H. Rehnquist.

Associate Justices Harry A. Blackmun and Lewis F. Powell Jr. did not participate in the decision.

Like Federal District Court, the majority rejected the power company's argument that it was immune from antitrust prosecution for refusing to supply municipal systems because the Federal Power Commission has authority to compel it to connect with other systems.

Nothing in the legislative history of the Federal Power Act "reveal a purpose to insulate electric power companies from the operation of the antitrust laws," Justice Douglas wrote, and the courts should hesitate to override such "fundamental national policies."

The majority concluded that the Otter Tail Company's refusal to sell or transmit power to some localities "were solely to prevent municipal power systems from eroding its monopolistic position."

CONTENTION REJECTED

While supporting the District Court's findings against the utility generally, the Supreme Court sent the case back for a determination of whether the power company's lawsuits to block public power systems were a "mere sham" and no serious litigation based on principle.

Justice Douglas also rejected the power company's contention that it would lose business if required to use less vigorous competitive practices. He noted that the court had declined to assist a bicycle manufacturer in 1960 on the ground that "the promotion of self-interest alone does not . . . immunize otherwise illegal conduct."

For the minority, Justice Stewart argued that electric power supplying was "a highly regulated natural monopoly industry" to which the anti-competitive proscriptions of the antitrust laws should not be applied so strictly.

Congress intended, Mr. Stewart continued, to let power companies decide for themselves whether to transmit or sell wholesale to other customers, and Otter Trail, left to its own devices, would obviously "decline wholesale dealing with towns in which it had previously done business at retail."

The Public Power Association, in a statement by Alex Radin, its general manager, said the decision would end the power monopoly enjoyed by some milk suppliers and permit "better coordinated regional planning for needed generation and transmission facilities."

USER FEES FOR FISHING BOATS

Mr. HOLLINGS. Mr. President, I have received a letter from a South Carolinian which I feel certain my colleagues will enjoy reading. The letter from Mr. Stanley E. Roberson, of Aiken, S.C., is expertly and cleverly composed in rhyme stating his opposition to what appeared to be a proposed Corps of Engineers rule establishing user fees for fishing boats.

I have discussed this matter with the corps and clarified the misunderstand-

ing. The reference to a daily $1 and a $5 user fee for nonmotorized and motorized boats on corps waters was in error. These fees refer only to boat rentals facilities, this provision will be deleted from their final rule.

I very much enjoyed reading Mr. Roberson's letter and I know it will be of interest to my colleagues in the Senate. Accordingly I ask unanimous consent that Mr. Roberson's letter be printed in its entirety at this point.

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

AIKEN PRINTING CO.,
Aiken, S.C., February 23, 1973.

DEAR SENATOR HOLLINGS:

This comes to you in kind of a rhyme,
So you may read it in the shortest of time.

I hope it reaches you in time to act.
Before the new fee becomes a fact.

My oh my taxes are high,
The Corp of Engineers get a slice of the tax pie.

Now they have come up with a new scheme.
To me it seems pretty mean.

They have a money making plan,
It will hurt the average sportsman.

Everytime he boats upon the lake,
The Corp of Engineers will be on the take.

It may cost as much as five dollars a day,
To most of us this aint hay.

The Federal Register in Washington, D.C.
Is the way they plan to legalize this fee.

36 CFR part 327 is where it can be found,
I hope the citizens by this part will not be bound.

Can they not operate on their income,
Without additional tax upon some.
So, Dear Senator, please hear my plea,
Don't let the Corp of Engineers impose this new fee.

Sincerely,

STANLEY E. ROBERSON.

SOLUTIONS TO THE OIL AND GAS CRISIS—RESOLUTION ADOPTED BY THE INTERSTATE OIL COMPACT COMMISSION

Mr. BARTLETT. Mr. President, I ask unanimous consent that the attached resolution adopted by the Interstate Oil Compact Commission be printed in the RECORD.

A wide distribution of this resolution will hopefully increase public awareness of the energy crisis and spur public officials to begin implementing solutions.

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

RESOLUTION

Article II of the Interstate Compact to Conserve Oil and Gas states, "The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause." As a long established pioneer and leader in the conservation of our national resources, the Compact believes that waste includes the failure to find, develop and direct the full potential domestic petroleum resources to fill the present and future consumer needs. Such failure is not limited to operating practices of those who develop the petroleum resources, nor the action or lack of action by State regulatory agencies, but can result from Federal policies as well.

The influence of adequate energy supplies on the U.S. economy cannot be overemphasized. Oil and gas currently account for about 75 percent of this energy and indications are that these fuels will be primary energy sources for many years. The demand for energy is continuing to increase; however, the growth in domestic energy supplies is not keeping pace. As a result, the U.S. is becoming increasingly more dependent on foreign imports. Most of the growth in imported supplies will be from Eastern Hemisphere sources, some of which may be subject to interruption. Over-reliance on these sources of supply of vital energy is clearly not in the national interest.

No foreign nation or group of foreign nations has the present capability to produce and deliver energy resources to the United States in sufficient quantities to supplant current domestic energy supplies, and no amount of resource capability developed abroad would provide the reliability of a developed domestic resource capability.

All steps possible should be taken to expedite the exploration and development of domestic natural resources. Improved recovery technology should be developed to achieve greater recovery of known reserves. A favorable climate should be achieved and maintained to make possible the full prevention of physical waste of oil and gas.

Now, therefore, be it resolved that the Interstate Oil Compact Commission urges the Governors of the Compacting States to ask the Administration and Congress to encourage the further exploration and development of our vast potential of domestic energy resources by the following actions:

1. Adopt comprehensive and coordinated energy policies which will ensure the development of secure domestic energy sources to the fullest extent possible and minimize U.S. reliance on foreign oil and gas supplies.

2. Encourage the wise and more efficient use of energy. All sections of the economy should achieve energy savings through increased public awareness of energy supply problems.

3. Maintain and strengthen the Mandatory Oil Imports Program which has been established for the purpose of national security and is administered with the fundamental objective of ensuring that the Nation has an adequate and secure supply of petroleum.

4. Modify the import program to encourage the building of petroleum processing plants in the United States to meet U.S. petroleum product demand.

5. Increase incentives and remove obstacles to the sale of natural gas to permit free competition of domestic natural gas with other energy fuels and to directly stimulate exploration and development of domestic reserves.

6. Expeditiously define environmental requirements to include the necessity for exploration and development of areas of potential oil and gas supply, such as Alaska and other inland as well as offshore areas.

7. Remove unnecessary administrative obstacles to exploration and development of publicly owned offshore and onshore acreage for oil and gas by private industry.

Be it further resolved that the Executive Secretary of the Interstate Oil Compact Commission is hereby instructed to furnish a duly certified copy of this resolution to each of the Governors and Official Representatives of the Compacting States for such action as is deemed necessary.

EXCERPTS FROM SPEECH BY SENATOR HUMPHREY BEFORE THE NATIONAL AUTOMOBILE DEALERS ASSOCIATION

Mr. HUMPHREY. Mr. President, at the convention of the National Automobile Dealers Association, I had the opportunity to address the membership on the state of the American economy and its relationship with the rest of the world.

In my remarks, I reminded the convention that world trade, tariff, and international monetary considerations play a crucial role on the domestic American scene. Although many Americans may not realize or appreciate the importance of international economic relationships, we live in an increasingly interdependent world. The health of the American economy is key to international economic stability. I believe the administration's phase III policy, with the premature lifting of controls, decreased confidence in our economy, and precipitated the recent international monetary crisis. I stated that if inflation did not abate I would work with my colleagues in this body to reestablish an equitable system of wage and price controls.

I also dealt with the issue of new trade legislation which the President will shortly send to the Congress. The goal of avoiding a confrontation with our trading partners while at the same time protecting the economic security of labor and business will be difficult to achieve. However, I am convinced that we can achieve this goal if the President and the Congress work together closely on trade legislation. I urged President Nixon to consult with Members of Congress prior to his formal submission of trade legislation. An atmosphere of cooperation and compromise within the framework of developing a viable trade policy is critical to avoiding a trade war and bringing to the American worker and businessman the economic security they so rightly deserve.

Mr. President, I ask unanimous consent that excerpts of my speech to the National Automobile Dealers Association be printed in the RECORD.

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

ADDRESS BY SENATOR HUMPHREY

I am not an expert in international trade and monetary policy.

But, like all of you, I am concerned with our foreign economic policies.

There is little that happens in America that is not related to these complex economic issues.

The food we eat.
The cars we drive.
The clothes we wear.
The jobs we hold.

Indeed, the quality of life in America cannot be separated from trade, tariff and monetary policies adopted in Washington and in the capitals of the industrialized world—and the flow of raw materials from the developing world.

This is not a new phenomenon.

As far back as the early twentieth century our Midwest and Great Plains farmers saw the bottom drop out of their lives as a result of worldwide market crashes.

And the mill towns and steel towns of the industrial revolution experienced boom or depression as a result of world trading patterns.

No matter how hard some of our countrymen try, we cannot divorce our lives from the commercial and trading relationships we have established with nations of the world. This is an interdependent world.

Recognizing this fact, both of us have jobs to do—you as concerned citizens and I as an elected official.

We must seek to insure that the benefits of foreign trade are shared equitably.

And we must also make a commitment to

aid those who are legitimately injured by our foreign economic policies.

These tasks may not be easy to achieve. But we must make the effort.

Today we meet in the midst of economic uncertainty and crisis.

I do not have a crystal ball to predict the future.

But I would like to give you my thoughts about where I think we are headed and what I believe must be done to avoid new crises.

Last week's monetary crisis was met with decisive action by our government.

Hopefully a devalued dollar and the realignment of other currencies will halt the crisis and allow us time to construct a coherent trade policy and further reform the international monetary system.

I am aware that the devaluation might present a problem to your businesses. Last year foreign cars accounted for nearly 15 percent of the U.S. market.

But your past successes based on the sale of a highly competitive and desired product, point to your ability to weather this setback and not lose a significant share of the market.

I believe you will hold your own at a time when the demand for cars—both domestic and foreign—seems to be increasing.

You may question the desirability of dollar devaluation but, I can assure you that this action is preferable to an across the board surcharge on imports of 10 to 20 percent, and you and I know that the surcharge was being contemplated by the Administration—and is being advocated by some in the Congress.

Hopefully such a surcharge can now be avoided because of the devaluation. And although you cannot breathe a sigh of relief, I do believe that you will weather the storm.

And, in all candor, I believe the devaluation of the dollar was the result of governmental fiscal and monetary policies plus private and corporate international investment.

The monetary crisis which precipitated the devaluation was triggered by the Administration's timing of Phase III.

The Phase III decontrol policy was premature and it certainly was a prime factor in launching the crisis.

Investors and foreign governments were unwilling to believe the rhetoric of Phase III.

The holders of large amounts of dollars sold their dollars because of lack of confidence in our economy.

The establishment of worldwide confidence in the American economy and our ability to control inflation at home are the key to preventing a renewed crisis of this sort.

We are in a testing period as far as the President's Phase III policies are concerned.

If these policies cannot do the job, I will help organize efforts in Congress and around the nation to reinstitute a system of equitable wage and price controls.

This is not a threat. But the Administration must realize that we may be entering a period of price increases detrimental in the long run to both consumer and producer.

Reform of the monetary system and a healthy domestic economy cannot bring economic stability and prosperity alone.

They must be accompanied by new trade legislation which deals realistically with some of the controversial issues in the trade debate currently raging in this nation.

I know that the American Imported Automobile Association has a great stake in upcoming trade legislation.

The dimensions of your industry bear witness to this fact: There are approximately 4,600 foreign car dealers in the United States, employing nearly 200,000 people with a yearly payroll of about $1.5 billion. And American foreign car dealers have about $1.4 billion invested in their businesses.

I have a responsibility to level with you concerning the outlook for trade legislation in the 93d Congress.

Nowhere is the drive for protectionism more apparent than in the Congress and sentiment for protectionism is growing.

The economic and political environment in which trade legislation will be considered will have an impact on the substance of this legislation.

Allow me to summarize this environment for you:

The United States will continue to run a large trade deficit in 1973 and the size of this deficit will diminish slowly. It will be several months before we begin to see the fruits of the devaluation—if it materializes at all.

The largest portion of our trade deficit will be with Japan and could amount to $4 billion. Next in size will come our deficit with Canada at approximately $2 billion and we will have a smaller deficit with the European Common Market.

Unemployment is relatively high at a level of 5 percent. If this level falls at all, it will fall slowly.

Added to the economic realities is a protectionist sentiment being fueled by feelings of frustration and despair on the part of millions of American workers who feel that their jobs and families are threatened by the great influx of foreign made goods and the declining trade position of the United States.

I must add that I do not feel that workers in the American automobile industry are responsible for this sentiment in view of the boom market for domestic cars.

But, the American worker is under great economic pressure.

He must deal with inflation, high interest rates and a sense of alienation which comes with blocked social and economic opportunities.

The fact of the matter is that the American worker associates his own job security with the reduction of competition from abroad—either by foreign companies or American owned subsidiaries.

What he perceives to be true.

The translation of this sentiment means growing protectionist constituencies for Members of Congress.

Because of this the Burke-Hartke bill with its new quotas on imports and repeal of tax advantages for U.S. corporations' investments overseas does get prime attention in the 93d Congress.

The bill focuses on some very real issues—issues that are of great concern to American workers.

You can't tell the man who loses his job in a factory that his loss is the nation's gain.

Unless we face this fact, we will be severely hampered in the attempt to forge a new trade policy.

This week, the public and the Congress were given the first indication by the administration of the shape of its upcoming trade bill.

Aware of the need to reduce trade barriers erected by Japan and the Common Market against American industrial and agricultural products, President Nixon said he favored a "fair deal and a fair shake for American products abroad."

I agree with this rhetorical position.

He linked this theme with a position that he would seek broad new authority not only to lower tariffs but also to raise tariffs to help him bargain for improved markets for our exports.

This is all I know about the content of the President's forthcoming trade legislation—what do you know? Have you been consulted?

I would be surprised if more than a half a dozen Members of Congress out of a total of 535 know what the Administration was planning.

The President needs to remember the first rule of good Congressional relations: Build support with your friends and consult with everyone—including your opponents—in a confidential manner.

Because the Administration has a habit of secrecy on these matters, it must take the consequences for sending to Congress a major piece of trade legislation without testing both Democratic and Republican sentiment on a matter which will surely cross party lines.

By continuing to act first and consult later it injures the chances for passage of its proposals.

Because of the controversial nature of any trade measure and the great stakes involved, the actual legislation must involve considerable compromise. Without prior consultation with members of Congress, the President will make compromise more difficult.

I want to work with the President in the formulation of a reasonable trade policy. I know we must trade. We know that a trade war can be destructive.

I call upon the Nixon administration to remove the veil of secrecy which surrounds the development of its trade policies and work with the Congress on this matter.

We must realize that a new dimension of competition and even hostility may be arising between the United States and its trading partners.

I hope that we can avoid such a confrontation with our allies and friends. Indeed, we must!

But in order to do so, we must first avoid an acrimonious debate among ourselves and develop trade policies based on a strong public and Congressional consensus.

This cannot be done unless the President and his advisors move soon to consult with Business-Labor-Finance and meet with those of us in Congres who will be working on trade legislation.

TRAUMA PLAN SAVES LIVES

Mr. STEVENSON. Mr. President, much public attention in recent months has focused on the quality of emergency medical care in our cities, towns, and rural areas. Many communities are simply unable to respond rapidly and effectively to medical crises. The result is a growing number of deaths or disabilities which the proper organization and planning of existing medical facilities could eliminate.

I have been concerned with this problem for some time and recently joined Senator CRANSTON of California in cosponsoring the Emergency Medical Service Systems Development Act of 1973, S. 504. This bill would provide financial assistance to communities with an adequate plan for improving its emergency medical systems.

My own State of Illinois established a program of this kind, the Illinois trauma care program in 1971. The program attempts an areawide approach to trauma care—five large regional centers are located at key points around the State, with small areawide centers in more sparsely populated areas.

Recognizing that accidental death or serious disability frequently results from traumatic events, the Illinois program has singled out the critically injured patient as its first major target for treatment. The program utilizes medical facilities, health professionals, and technological resources already present in a given community. The rapid success of the trauma program is now leading the way for similar regionalization of all categories of emergency health care—

pediatrics, poison control, psychiatric screening, and cardiac intensive care.

The statistics for the first full year of operation of the trauma program are quite striking: For the first 6 months of 1972, as compared with the same period in 1971, there was an increase in highway accidents in Illinois of 8 percent and in persons injured of 9 percent. Yet there was a decrease of 8 percent in highway fatalities throughout the State during the same time period. Significantly, this works out to a steady decline in the percentage of deaths per person injured, from 2.8 percent in 1972 down to 2.1 percent during the study period. This 2.1 percent mortality rate in Illinois compares to a nationwide mortality rate in auto accidents of 13 percent.

It tentatively appears, therefore, that the regional approach to accident care can reduce the high death rate now being experienced across the Nation. The approach so successful in my own State of Illinois may provide solutions to deficiencies in other States' emergency facilities organization.

Mr. President, I ask unanimous consent that an Associated Press article by C. G. McDaniel about the Illinois trauma program be printed in the RECORD.

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

[From the Chicago Sun-Times, Feb. 6, 1973]

TRAUMA PLAN SAVES LIVES—NETWORK CUTS AUTO DEATHS

(By C. G. McDaniel)

Seventeen-year-old Susan Turner is working part time as a waitress and finishing high school. By all odds, she should be dead.

She would be, says Dr. David R. Boyd, were it not for the Illinois trauma care system. And her father Gene says so, too.

Boyd and Dr. Bruce Flashner, surgeons who had worked in the pioneering trauma care unit at Cook County Hospital, developed Illinois' unique system. Now state public-health officials, they drew on the co-ordinated trauma care which saved so many American lives in the Korean and Vietnam wars. They had the enthusiastic support of then-Gov. Ogilvie, whose life was saved by medical corpsmen after he was wounded during World War II.

Miss Turner was pinned inside an auto in an accident near her rural Atlanta (Ill.) home on Dec. 19, 1971. Police called the local trauma center in Lincoln, nine miles away, and a civil-defense team was dispatched. The victim was cut out of the car and taken by ambulance to Abraham Lincoln Memorial Hospital, the nearest designated trauma center. There, a doctor immediately noticed blood in her ear. This indicated bleeding inside the head, an injury too severe to be treated at the local center.

At Lincoln, the trauma co-ordinator, a new medical position in the Illinois system, contacted St. John's Hospital in Springfield, the regional trauma center, to alert the staff. Since it was a Sunday, fewer doctors and other personnel were on duty than usual.

By the time Miss Turner arrived by ambulance a half-hour later, the operating room was ready and a neurosurgeon had been summoned and was at the hospital waiting. The blood clot was removed from her brain in surgery, and she was on the road to recovery.

Boyd said in an interview that such an injury as Miss Turner sustained usually has 100-per cent mortality.

"If the system hadn't worked like clockwork, she would have died at the local center," he said.

Miss Turner's case illustrates the kind of care available to accident victims throughout the state—even in remote areas. Victims may expect the same level of sophisticated care as is available in Chicago. And it's available almost as fast, sometimes faster.

Even though the Transportation Department requires states to have statewide programs for treating accident victims in order to qualify for highway assistance, Illinois is the only state to have instituted such a program.

The Illinois program, which began July 1, 1971, includes 38 hospitals from Cairo to Rockford. Ultimately, 45 of Illinois' 300 hospitals will be included.

The program's effect on the death rate from accidents has been dramatic Boyd, chief of the division of emergency medical services and highway safety in the Illinois Department of Public Health, reports the death rate from highway accidents has dropped 8 per cent for the state. The mortality rate in Illinois auto accidents is now 2 per cent, compared to a nationwide average of 13 per cent.

Trauma—or injury by accident—is the third leading cause of death in the nation, after heart disease and cancer. Under age 40, it is No. 1.

An estimated 70 to 80 per cent of the annual 55,000 U.S. traffic deaths result from accidents in rural areas and communities with less than 2,500 population.

Some sparsely populated areas, especially in southern Illinois, have few doctors and no hospitals. On the other hand, Boyd notes, some of the more populous areas have had hospitals operating emergency rooms competitively.

Before development of the statewide trauma-care system, the victim was taken to the nearest hospital or the one favored by the ambulance driver, regardless of whether it was equipped to care for the critically injured.

Initially, the Illinois program began with designation of trauma hospitals, Boyd said, with emphasis on upgrading those which did not meet standards. Hospitals offering duplicating services were encouraged to drop them.

The problem of inadequate ambulances is next on the agenda. Already, though, helicopters and small planes are used to transport the critically injured over long distances. And this has been accomplished without much cost to the state because existing facilities have been utilized.

Planes and helicopters used by the National Guard, other state agencies and officials are pressed into use when needed. Hospitals, of course, supply required upgrading of existing facilities.

The network begins with the local trauma center. Each covers an area with a 25-mile radius. Then there are areawide and regional trauma centers, each providing more sophisticated medical care than the former. In addition, Children's Memorial Hospital receives complex pediatric cases and Northwestern Memorial Hospital takes spinal-cord injuries. Eventually, all Chicago hospitals will become part of the emergency-care system.

All the centers are connected by radio with each other and with ambulances, and all must have a helicopter-ambulance landing site. Former military medical corpsmen serve as trauma center co-ordinators, freeing the physician from the administrative duty.

The program includes special courses to teach ambulance attendants how to care for the injured en route to the hospital and to assess their condition. As a result of this statewide trauma-care program, former Gov. Ogilvie has said, "Death and disability from accidental injury are coming under control in Illinois."

A NATION OF IMMIGRANTS

Mr. KENNEDY. Mr. President, I would like to call to the attention of Senators and other readers of the RECORD a recent column on immigration which appeared in the Washington Post on February 22, 1973. The column, by Stephen Rosenfeld, is a thoughtful reminder of our country's ideals and heritage, and that immigration is the oldest theme in our Nation's history. I ask unanimous consent that the column be printed in the RECORD at this point.

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

WHY THE UNITED STATES IS SO INVITING TO EMIGRANTS

(By Stephen S. Rosenfeld)

Seeing the film, "The Emigrants," the other night and recalling "Fiddler on the Roof" from last year, I got a striking sense of how unique and compelling the idea of America was to people all over the world in the last century, and of how extensively—if not always on merit—that idea continues to nourish our image of ourselves today.

Both movies portray the physical and psychic disintegration of tight, traditional family- and place-oriented communities, Swedes in Sweden in "Emigrants," Jews in Russia in "Fiddler." When their values, livelihoods, and security can no longer be sustained on native ground, they both turn with compass-needle certainty to the United States. To them it is a land of freedom and opportunity, in the uncluttered old-fashioned sense of those terms. They leave the land of their fathers and, with scant belongings and nursing children, pack off for America.

Now, no doubt a good part of the great popularity and critical acclaim these two films have received can be laid to their simply being good films, in the eyes of Post critic Gary Arnold, for instance, and the Oscar committees.

Perhaps another aspect to their reception is their open and warm indulgence of ethnicity, a phenomenon much on the country's mind and sleeve these days. Friends who've seen "Sounder" suggest that it may be a black counterpart on both esthetic and ethnic grounds.

A cynic might say that movies such as "Emigrants" and "Fiddler" are escape exercises which owe their vogue to the American public's desperate wish to flee the current national disarray and to take refuge in a simpler past in which America was respected and respectable and hard work and personal dignity were respected too. I might say that this charge doesn't slow me down a bit: plenty of other movies, and lots of other things, are available to tell us what miserable creatures we Americans are.

The deeper fact remains that these pictures not only tell us something about ourselves and our country that we're glad to hear. They tell us something, which in many places in the world, is still thought to represent the American essence and which a great many Americans are still trying to make come true.

For all of our faults of policy and flaws of character, most people think of the United States when they think of one country which embodies freedom and opportunity. I say this with some trepidation but not without some reflection, too—in particular reflection on the basically middle-class quality of the ambitions of simple people almost everywhere, something which a great many would-be revolutionists have discovered and deplored in their respective places and times.

I would guess that most of us, whatever our views on Vietnam, look upon the flight of some young Americans to Sweden or

Canada as limited and special. We continue to be the country more people try to emigrate to, or sneak into, than any other. Virtually alone among nations, we are subjected to the most arduous form of flattery, to be constantly judged by others in terms of our own professed ideals.

Moreover, the premise of our national politics remains that those ideals are still necessary and serviceable guides to public policy. Whole "new" constituencies—blacks, Chicanos, youth, women, etc.—keep organizing on that premise:

"Thousands of protesters, many from the ranks of the nation's poor, rallied peacefully yesterday afternoon at the Capitol," a Post story began on Wednesday. One does not have to endorse their purpose—to undo administration cuts in social programs—to recognize the premise, and to be gratified that the protesters hold it.

Indeed, no amount of frustration and disillusionment seems to crush this generalized faith in America which so many foreigners and Americans persist in keeping. It is, I think, remarkable, even aweing, and it exists apart from whether any one of us believes that the United States has earned it or not. It can, of course, be diminished by poor national performance but it can also be expanded and put to good national use.

Such faith in American values, then, may help explain not only the particular appeal and reception of "Emigrants" and "Fiddler" but how the United States manages to hold together despite its cracks and strains and how, even after the searing of Vietnam, we are still able to make our way in the world.

SECRETARY MORTON'S ANNOUNCEMENT CONCERNING THE TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, yesterday, Tuesday, February 27, 1973, the Secretary of the Interior, Rogers C. B. Morton, made a major announcement concerning the trans-Alaska pipeline. In it he indicated that the Federal Government would vigorously appeal the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Wilderness Society against Morton. He also indicated that it was incumbent upon Congress to enact legislation quickly to permit pipeline rights-of-way wider than the 25-foot limitation permitted under section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185).

I have spoken many times on the importance of this issue for the State of Alaska and the Nation as a whole. The urgency of the situation is underscored by this major announcement by this administration.

I commend the administration for taking such positive leadership in this major effort to solve the Nation's energy crisis.

I request unanimous consent that the text of Secretary Morton's press release containing his remarks be inserted in the CONGRESSIONAL RECORD at this point.

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

SECRETARY MORTON ANNOUNCES TRANS-ALASKA PIPELINE ACTION WILL BE SOUGHT IN CONGRESS AND SUPREME COURT

Secretary of the Interior Rogers C. B. Morton announced today, from his temporary office in Menlo Park, California, that the Administration will seek action from the Congress and the Supreme Court to allow construction of the Trans-Alaska pipeline at the earliest possible date.

He stressed that "with each passing month it becomes ever more obvious that it is in our national interest to get delivery of Alaskan oil to the Lower 48 States at the earliest practicable date. We will have to import every barrel of oil we don't get from Alaska. Alaskan oil is necessary to relieve the energy picture in this country, to avoid further deterioration of our trade balance, and to avoid increasing our dependence on foreign supplies of oil.

"As I said last May, this is going to be the most carefully built and operated pipeline in history. We understand the environmental risks involved and we are going to assure they are avoided to the maximum possible extent. We've studied this matter for almost four years; it's time to get on with the job.

"I am confident that the Congress and the Supreme Court will share our view that this is a matter of the highest national importance and will act with a sense of urgency to remove the obstacles to prompt construction that arise from the Court of Appeals' decision of February 9, 1973."

The Court of Appeals held, in *Wilderness Society* v. *Morton*, that under the Mineral Leasing Act of 1920, Secretary Morton does not have authority to issue special land use permits authorizing the temporary use, for construction purposes, of land more than 25 feet from the outer edge of the pipeline. In view of this holding, a majority of the Court refused to decide whether the six-volume environmental impact statement, prepared by the Federal Task Force on Alaskan Oil Development, satisfied the requirements of the National Environmental Policy Act (NEPA).

The three judges who considered the merits of the environmental issue found that the statement was adequate; they felt the Court should have rejected the contention of the plaintiff environmental groups that the statement failed to consider adequately an alternative Trans-Canada route for the pipeline.

Secretary Morton pointed out that before he can issue permits authorizing pipeline construction it will be necessary to resolve both the issue of his statutory authority and the question of whether the impact statement meets the requirements of NEPA. He said, "I am recommending that the Solicitor General ask the Supreme Court to review this case as a matter of urgency and decide both issues this term. I believe the Supreme Court will decide in favor of the Government on both points.

"But, because an unfavorable decision on the question of my statutory authority would do such great damage to our entire economy, I am also recommending that the Congress promptly enact legislation that will remove any doubt about my authority to issue permits necessary for construction not only of pipelines, but also transmission lines and other facilities that must cross Federal lands.

"Under the Court of Appeals' opinion, it will probably be impossible to build any new oil or gas pipeline across Federal lands anywhere in the United States. The opinion even casts a cloud over the very common practice of using public lands beyond the statutory breadth of transmission line rights-of-way for the purpose of bringing in materials and equipment during construction. Because we simply must have such new facilities to support our expanding economy, I will ask Congress to include an appropriate right-of-way provision in the Administration's proposed National Resource Land Management Act of 1973."

On the question of an alternative pipeline route through Canada, Secretary Morton said, "I explained in detail to the Joint Economic Committee of Congress on June 22 of last year why I am totally convinced my decision to grant a permit for the Trans-Alaska route is in the highest public interest and why we cannot afford to try to force the oil companies to build a pipeline through Canada. For a number of reasons, a pipeline across Canada would involve great delay in delivery of oil to our markets even if the Canadian Government could and would grant the permits necessary for construction. And, even after the line is in operation, recent statements by Canadian leaders indicate that its full capacity will not be available to U.S.-owned oil. This is of great concern from a balance of trade point of view, and it is inconsistent with our desire to place the maximum possible reliance on our own, rather than foreign, sources of energy. My concern on this account is increased by the fact that the Canadian Government has recently found it necessary to place controls on their export of crude oil to us."

Morton said he has found that a large number of people in the West share the view that it is important to clear up the obstacles to construction of the pipeline as soon as possible.

NEW FEDERALISM IN TROUBLE?

Mr. MUSKIE. Mr. President, in the accumulating mass of literature about the President's philosophy of "New Federalism" and his methods to implement it, several recent articles stand out. They are: An excellent analysis, "Impoundment Relies on Weak Arguments," by Louis Fisher in the February 25, 1973, Washington Sunday Star; a perceptive commentary, "Nixon's 'Federalism' in Trouble," by James Doyle in the February 23, 1973, Washington Star-News; two columns by David Broder in the Washington Post of February 25 and February 27, 1973; "Telling It Not Quite Like It Is," by Tom Wicker in the February 27, 1973, edition of the New York Times; and a timely editorial, "The Short Rope," in the February 27th New York Times.

I ask unanimous consent that these articles be printed in the RECORD.

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

IMPOUNDMENT RELIES ON WEAK ARGUMENTS

(By Louis Fisher)

Exhiliarated by his 61 percent November mandate, with 49 states tucked away neatly in his corner, President Nixon has staged a bold confrontation with Congress. Thus far legislators have responded with angry and fiery denunciations about the impoundment of funds. The spectre of "one-man rule" has been raised. Invocations, if not incantations, are made to the Constitution, the Founding Fathers, and the separation of powers doctrine. Amidst all the clamor and heavy rhetoric, the funds remain impounded.

Executive officials visiting Capitol Hill to defend the legality and political wisdom of impoundment, have little difficulty in marshaling a host of precedents, legislative histories and statutory fragments to support their cause.

The standard litany includes:

"No sense spending money on wasteful and ineffective programs."

"Spending must be curbed or we'll have a tax increase (or renewed inflation)."

"Other Presidents have done it."

"We have to impound to stay within the statutory debt limit and to carry out the Antideficiency Act."

To the uninitiated these arguments may sound reasonable, but are they?

The issue of whether impoundment is constitutional—whether it is legitimate or politically defensible—is beyond the scope of this article. Impoundment comes in many shapes and colors, legitimate in one case and highly questionable in another. A more man-

ageable task is to question the current rationale offered by the administration. Is it as strong as it outwardly appears?

Consider the special section in the new budget on "Program Reductions and Terminations." A major criterion for identifying low-priority programs is this test: "Would they justify an increase in tax rates to pay for the anticipated expense of their continuation? The 1974 budget proposes reducing or eliminating programs that do not meet this criterion."

Is it too much to wonder if that same standard was applied to the space shuttle? To the B-1 bomber or the SST? To the ABM site in North Dakota or to merchant marine subsidies? Or are those, to borrow from the President's Jan. 28 radio address, "sacred cows"?

How does the Office of Management and Budget decide which projects to continue and which to shelve? Roy Ash, in a Feb. 1 appearance at the Joint Ervin-Chiles impoundment hearings, assured the senators that "we are not choosing between good programs and bad programs. In many cases we are forced to choose between good ones and better ones."

Very nice, but is there a measuring rod somewhere that distinguishes between bad, good and better?

Apparently that is not the case. Some insight as to how things work can be gained from hearings held in June 1971. Caspar Weinberger appeared before the House Appropriations Committee to explain why the OMB had impounded, without exception, every public works project that Congress had added to the President's budget.

Choices were not made in terms of the *merits* of the projects, such as cost-benefit ratios or some other criteria. OMB simply decided that the President's budget should stand as is and that all congressional additions should be deferred.

Weinberger admitted that the OMB did not feel qualified to exercise independent judgment on the projects. It was merely a case of depending on the Corps of Engineers and the Bureau of Reclamation as to which projects had a lower priority—"by definition those projects that are not included in the budget . . ."

The image of the President and his budget officials standing in front of a smorgasbord, delicately picking out good programs from better programs, is pure fantasy. The "good programs" are those added by Congress. The "better programs" are those initially requested by the President.

In his news conference of Jan. 31, Mr. Nixon said that he would respond to critics of impoundment in the "same way that Jefferson did, and Jackson did, and Truman did."

The Jefferson example has been something of a godsend, eagerly seized upon by administration spokesmen. Weinberger told the Senate Committee on Labor and Public Welfare on Jan. 17 that "we are doing not only nothing different than any other President since Thomas Jefferson has done; we are doing it in no greater degree." Both points are shaky.

It is almost embarrassing to recall the details of the Jefferson incident. Congress had appropriated $50,000 for gunboats in anticipation of an emergency. When the emergency failed to materialize, Jefferson saw no reason to spend the money. Neither did Congress. He announced that the "favorable and peaceable turn of affairs on the Mississippi rendered an immediate execution of that law unnecessary."

It was a commonsense impoundment, in no way defying Congress. Can anyone seriously offer that as a precedent for cancelling the Rural Environmental Assistance Program (REAP), placing an 18-month moratorium on housing, or withholding $6 billion in contract authority from the water pollution control program? Would not Congress be subject to ridicule if it offered such strained analogies?

Budget officials like to point out that 1967 impoundments represented 6.7 percent of budgetary outlays, compared to only 4.6 percent for 1972 impoundments. To compare administrations with aggregate figures, either with dollar amounts or with percentages, is meaningless. You have to look at individual impoundment actions, separating the routine from the controversial.

Percentages are helpful in showing the impact of impoundment *within* an administration. OMB's Feb. 5 report lists $1.899 billion withheld from the Department of Defense (military functions), $1.497 billion from Agriculture, and $529 million from HUD. Convert that into a percentage of total available budget authority for fiscal 1973 and you get 2.4 percent Defense, 13.0 percent Agriculture, and 10.5 percent HUD. If Defense is under-represented, the main burden of impoundment obviously falls on the domestic programs. And so it does.

Two other calculations are needed to understand the full impact on domestic programs. The Feb. 5 report is restricted to impoundment of appropriated funds. It is also possible to "impound" by withholding contract authority, such as for home ownership or rental assistance programs. Total impoundments for HUD—in appropriated fund and in contract authority—come to $991 million, 19.8 percent of the Department's total available budget authority.

Also important is the amount of money that will lapse (be lost) at the end of the fiscal year. Of the defense impoundments, all of the funds will be available beyond fiscal 1973 except for $7.5 million in annual accounts. Thus, less than half of one percent will lapse. Compare that to $207 million of Agriculture money that will not be available beyond fiscal 1973—13.8 percent of Agriculture impoundments.

But in addition to the $207 million you have to add other funds that are technically or legally "available" after fiscal 1973, but which the administration has no intention of spending. This category includes $210 million for REAP, $11 million for the Water Bank Program, $456 million for rural electrification loans, and $120 million for rural water and waste disposal grants.

In a practical sense, then, 67 percent of the Agriculture impoundments will be lost after fiscal 1973. In the case of Defense, none of the funds that extend beyond fiscal 1973 face political impoundment.

Of the $529 million in appropriated funds withheld from HUD, all of the money is technically available after fiscal 1973. However, with the single exception of $6.6 million in housing production and mortgage credit, the administration does not intend to spend any of the funds. Moreover, the housing pipeline will be depleted during the 18-month moratorium, resulting in a loss both of funds and of momentum.

To pinpoint the specific kind of impoundment that disturbs Congress. Sen. Ervin reminded Roy Ash of a 1971 example. Urban funds were withheld at that time because, as George Romney explained, there was no sense in accelerating programs that were "scheduled for termination."

Note that the "scheduling" was by the executive branch, not by Congress. It was the administration's intention to convert urban programs into the President's revenue sharing proposal. Impounding funds in this prospective sense—holding on to money in anticipation that Congress would enact an administration bill—was a new departure for the impoundment technique.

Ash responded by saying that the Romney example "dealt not with this year but earlier. . . . This year the reasons are very compelling ones and different ones." Yet impoundment is still being used today as part of the administration's strategy to enact urban revenue sharing. The 1974 budget stops new project approvals under seven "outmoded and unduly restrictive" grant and loan programs. As these programs decline, they are to be phased (so the script reads) into the administration's $2.3 billion special revenue sharing plan.

This is confirmed by a Jan. 15, 1973 letter from Kenneth R. Cole Jr., Director of the President's Domestic Council. He informed Sen. Sparkman that "until the [community] development activities are folded into the revenue sharing proposal, there will be a temporary suspension of new commitments for water and sewer grants, open space and public facilities loans."

Was that an attempt to blackmail Congress into passing urban special revenue sharing?

During the hearings on James Lynn's nomination as the new HUD Secretary, Senator Packwood asked: "If Congress, in its lack of wisdom, refuses to pass the urban and special revenue sharing bill, is it your intention or recommendation to permanently freeze community development funds?" Lynn's reply was nearly incomprehensible: "I think we would have to face up then to what our position would be and would make our recommendations as to what happens to water and sewer quite separately. Yes, we would, but all we are talking about is the time sequence. This is an optimistic plan based on what we think is the right thing to do, and, as you said, Mr. Chairman, the right thing to do is to have revenue sharing. Mr. Cole is saying that we intend to have the revenue sharing substituted for it."

Housing programs are being suspended or terminated, according to the administration, because they are wasteful and ineffective. Does the President apply that same rigorous principle, on such a broad scale, to procurement programs for the military?

The administration had four years to study the housing programs and come up with legislative remedies. Nothing was proposed except for urban special revenue sharing and a consolidation and simplification bill. To wait four years and apply the draconian remedy of a moratorium smacks of bad faith.

The administration professes an open mind on the housing program, evaluating its objectively and impartially during the 18-month period. Some of the statements in the Cole letter ("The program structure we have now cannot possibly yield effective results even with the most professional management") indicate that the evaluation has already been made. That too suggests bad faith.

In their more modest moments, when not invoking the inherent powers of the President, administration officials claim that impoundment is necessary to satisfy statutory directives. This is the humble approach. On such occasions the public debt limit is trotted out to explain why funds are impounded. "Congress set the limit; we cannot go above it."

That is true, but there is nothing to prevent the administration from asking that the limit be raised. They do it all the time nowadays. Why is it we spend billions to meet our commitment in Southeast Asia, put a man on the moon, and extend revenue sharing to the states without feeling constrained by the debt limit?

OMB argues that it would be impossible to stay within the debt limit if outlays for fiscal 1973 exceed $250 billion. That is an administration spending target, not a statutory ceiling. Roy Ash tried to give it a quasi-statutory blessing by saying that both houses had supported a $250 billion limit, even if it was not enacted. Sen. Chiles offered this advice: "Mr. Ash, most things we do around here, if they do not come out too a law, we do not think they amount to much."

The Employment Act of 1946 and the Antideficiency Act are also used to defend im-

poundment. Weinberger told Senate Labor and Public Welfare on Jan. 17 that the 1946 Act "requires the President to maintain policies that guard against inflation." It does no such thing. It requires the President to present an Economic Report, but he has no special powers (Discretionary spending powers were deleted from the 1945 Full Employment Bill).

The act declares it to be the responsibility of the Federal Government—i.e. Congress and the President—to use all practicable means "to promote maximum employment, production, and purchasing power." It is true that impoundment, as an anti-inflation weapon, can help promote purchasing power, but that begs the question: where does the act grant power to the President? And second, the Employment Act was meant to promote purchasing power by stimulating employment and production. Impoundment does just the opposite.

As for the Antideficiency Act, that has become an all-purpose contraption to justify practically any kind of impoundment. Yet the act has but two narrow objectives. One is to apportion funds (usually by quarters) so that agencies do not exhaust their funds before the year is out. The second is to set aside reserves to provide for contingencies or to effect savings.

There is nothing in the legislative history to suggest that reserves can be established for the purpose of fighting inflation. Nowhere does the legislative history imply an authority to cancel or curtail a program because the administration doesn't like it. If an administrator can satisfy a statutory purpose by spending fewer dollars than Congress appropriated, all well and good, but the purpose itself is not to be denied.

To challenge these administration arguments is not to dispose of the impoundment issue. Far from it. It is merely to sweep away some of the cobwebs that now confuse us, prevents us from asking more fundamental questions.

The primary motivation behind the controversial impoundments is not obedience to statutory directives. What we are witnessing is an act of administrative policy-making and priority-setting. It is the question of which branch shall decide how to allocate the public funds.

In a revealing interview published last November in The Star-News, President Nixon philosophized about the proper relationship between the Federal Government and the people. The average American was "just like the child in the family. You give him some responsibility and he is going to amount to something." He argued government to "allow people to do more for themselves, to encourage them to do more for themselves, to encourage them to do more for themselves." Explicitly rejected was the doctrine that Papa knows best.

That is not exactly the way the President sees his relationship with Congress. The present lack of comity, he explained in a Jan. 31 news conference, is that Congress "represents special interests . . . there is only one place in this government where somebody has got to speak not for the special interests which the Congress represents but for the general interest . . . I am going to stand for that general interest."

Is Congress likely to stand for the proposition that, at the Federal level, Papa knows best?

[From the Washington Star-News, February 23, 1973]

NIXON "FEDERALISM" IN TROUBLE

(By James Doyle)

Despite his landslide reelection his successes in Vietnam and the disarray of the Democratic opposition, President Nixon's New Federalism is in political trouble.

One month into his second term, Nixon is faced with rising opposition, not only from the Democratic Congress, but also in statehouses and city halls where he gained support last fall.

Of course presidents and their congresses always fight in February, when legislative conflicts seem at their worst, before the compromising starts.

But the early signs are especially bad this year, and at a time when they should be better because of the closing down of the Vietnam war, which has divided Americans for eight years.

Next week the nation's governors will hold their annual Washington meeting. Usually these affairs are frothy and insubstantial, with some posturing for the cameras and a good deal of premature talk about incipient presidential candidates.

But this year the governors are in a sour mood. They plan to organize an effort to fight the President's budget cuts for a number of domestic programs.

The following week about 250 mayors will be in Washington, along with about 700 other municipal officials. They plan to spend much of their time lobbying on Capitol Hill against the budget and the President's "New Federalism," which most of the big mayors think will cut the heart out of some important urban programs and contribute to turning the cities into hopeless prisons for the old and the poor who cannot escape to the suburbs.

A dozen mayors from across the country appeared before a Senate subcommittee this week to renounce their earlier endorsement for the President's revenue-sharing program.

A year ago some of these men were hailing revenue sharing as a revolutionary breakthrough and the first real initiative by the federal government in decades. Now some were calling it a cruel hoax.

The reversal lies in a change of attitude. Most of those mayors still believe that revenue sharing is a good idea. But they are so upset with the President's new budget, and what they consider a broken promise of continued financial support, that they are inclined to do anything to register their opposition.

The same attitude prevails among many congressmen, and is a somewhat lesser extent among the governors, some of whom are happy with revenue sharing so far. Some were able to show surpluses in their state budgets for the first time.

What may be more important, the attitude does not appear to be just the usual political infighting and posturing. Some of the President's critics, at least, make it clear that they believe his New Federalism is going to be a domestic disaster comparable to the Vietnam war. They plan to fight it just as bitterly.

What has caused this bitterness is a combination of things. The President is committed to a complete restructuring of government, and he wants to give mayors, county executives and governors more local power and commensurate responsibility. That has caused grave doubts in Congress but, as a concept at least, it has been cheered in the states.

To carry out his New Federalism the President has planned a system of federal grants with fewer or no strings attached. But, at the same time, to control inflation and cut the federal deficit, the President has cut a number of nondefense programs to the bone, and announced that he plans to eliminate others completely.

If the mayors and the governors want to continue these programs, they can pick the ones they consider most important and fund them out of the revenue-sharing money, the President's budget says.

PRESIDENTIAL PLEDGES

The mayors can point to any number of pledges by the President and his aides, back when the revenue-sharing bill was being debated. Then the administration said that its first bill, calling for general revenue sharing, would provide new federal money, and would not rely on funds from existing programs.

A second proposal, for special revenue sharing, is still just a proposal. It would be a revised series of block grants in four areas—education, law enforcement, manpower training and urban community development—that would supplant many other programs in the same areas. The new grants could be used with more flexibility by local officials.

One of the reasons local officials supported these initiatives, which had been talked about for eight years, was that communities often found themselves building libraries when they needed playgrounds; that happened because federal funds were available for the libraries and they did not want to pass up the "free" money.

But, the mayors say, under the President's system there will be no money for either libraries or playgrounds. Furthermore, the municipal employes are likely to make a political power play for much of the general funds for a pay raise.

LEVERAGE SOUGHT

"If you sat down with the mayors over a beer, they will still be for revenue sharing," says an official of the United States Conference of Mayors. "But they are so mad at the President for gutting all these programs that they want to oppose him however they can.

"The pressure is on these guys directly, but they find they have no leverage. They can lobby Congress to keep all of the old programs, but they know the President will veto those bills, and they know there aren't enough votes to override the vetoes."

The result is that mayors, and congressmen and governors as well, are looking for any area where they can hurt the President politically, to "get leverage."

You can call that pettiness or revenge or whatever you want. The point is that in politics, it can be devastating. And sooner or later, the opportunity comes.

One plan that some of the mayors have already agreed upon is to tie the President's proposed aid to Hanoi to the fight over money for the cities.

There is an obvious dramatic appeal here. "The mayors of Hanoi and Haiphong have got pledges for aid from the Nixon Administration," says San Francisco's Mayor Joseph Alioto. "What about the mayors of New York, Chicago, Houston and San Francisco?"

Mayor Richard Hatcher of Gary, Ind., told the Maine Sen. Edmund S. Muskie's subcommittee on intergovernmental relations, "When the country decided to get out of Vietnam, it sent Mr. Kissinger to negotiate the terms. When it decided to get out of the cities, it sent no one. It simply got out."

He added that Congress should repudiate the President and "prevent an urban Vietnam before it becomes a reality."

But beyond the rhetoric, the mayors are willing to play any notes that will get a response. One responsible official said, in utter seriousness, "If we can block the aid to Indochina and the Vietnam agreement starts to fall apart because of it, then the President will respond to us. It's a way out chance, but it's leverage."

JUNE CUTOFF

That suggests how serious the mayors take these budget cuts. And already, Mayor Richard Daley of Chicago has started mobilizing his troops in Congress to defeat the President's plans.

The urgency is there for the mayors. If the President succeeds, the funds will start, disappearing in June. Meanwhile local groups have heard that no-strings federal money is available, and they will want to know where it is.

Milwaukee's Mayor Henry Maier, a strong

supporter of revenue sharing, told the Muskie subcommittee Tuesday that he could no longer be counted in favor. Afterwards, while he was having lunch in Washington, he got a telephone call from Milwaukee telling him that 30 Indians were holding a sitdown in his office, demanding to know where the federal money is.

Another mayor was asked if, with the number of summer job programs due to be canceled, there were likely to be riots in this city, a middle-sized East Coast city with a large population of poor blacks.

CRIME RISE FEARED

He guessed that there would not be. But he said street incidents would soar, teen-age gangs would be on the streets all summer, his police force would be taxed to the limits, and the incidence of both crime and youthful criminal records would start the upward spiral again just as things were beginning to get better.

In testimony he planned to give before Congress today, former Housing and Urban Development Secretary Robert Wood, who is now President of the University of Massachusetts, quoted a phrase of Justice Benjamin Cardozo to describe Nixon's New Federalism.

"What the Nixon program does is make a promise to the ear and break it to the heart," he said. He called it "a new version of the old shell game—whichever shell you look under, the federal funds you thought were there have vanished."

Wood is one of those who agrees that federal aid programs in many specific categories can be frustrating and wasteful. But the federal government has a responsibility to establish national standards and national priorities, he argues.

He points out that money spent under the 1965 Elementary and Secondary Education Act was meant to improve education for poor children. Some money was spent on band uniforms and unnecessary equipment.

"Illogically", he adds, the Nixon remedy is not to tighten up the program but to let localities spend education money without restriction or targeting.

"It is not only the poor and minorities who will suffer from special revenue sharing; the fact is that every constituency with special needs and no special political leverage will suffer," Wood said.

But more to the point of why Nixon, or at least his party, could be in political trouble, is Wood's prediction of what will happen in the area of federal aid to education in the next few years under Nixon's New Federalism.

"The administration's budget request asks for an impressive $959 million for the new program (special revenue sharing for education). The problem is that it totally eliminates two out of three programs which help lower income students," Wood noted, and in its other aspects it falls far below what Congress has mandated as a minimum amount before funding middle-income aid programs.

"What is clearly predictable is a period of confusion, argument and delay. Congress will not appropriate $959 million for a program which is contrary to its terms of authorization of the previous year.

"The administration will refuse to spend money appropriated according to the terms of the authorizing legislation.

"Students will suffer."

At the same hearings today before the Muskie subcommittee, Richard Nathan of the Brookings Institution was to make a presentation aimed at explaining just what it is the President is trying to do.

As a former budget officer in the White House during Nixon's first three years, he knows the rationale behind the figures.

Without defending the President's new budget, Nathan pointed out that there was in it a clear attempt to move government away from Washington to the states and the cities, and to remove the subgovernments that have grown up around specific federal programs, where a government bureaucrat in Boston may be more powerful than the mayor in a given area of control.

It goes beyond the budget, he said, and follows a trend started by the courts, notably the Supreme Court, that "changed the ground-rules of domestic government" by mandating equal voting rights for all groups and equal apportionment and distribution of tax funds.

Local officials, Nathan argued, need to be strengthened and are now in a position to accept more responsibility. Nixon himself has made this argument a foundation of his New Federalism.

Clearly, the basic argument here is one between philosophers of government who mean well, on both sides.

But the philosophy, as worked out in the fiscal 1974 budget, has made the fight appear to pit the Nixon administration against many other elected officials.

[From the Washington Post, Feb. 25, 1973]

LOSING WITH A LANDSLIDE

(By David S. Broder)

A longtime friend of the President was genuinely startled the other day to be asked by a White House reporter if he saw signs that Richard Nixon was succumbing to the same sense of inflated power that Lyndon Johnson exhibited in the wake of his 1964 landslide.

"I don't see that at all," he said and indeed, the surface manifestations of today's White House could hardly be more unlike those of Johnson's euphoric period. In the first months of 1965, LBJ flooded the Congress with legislative requests; each of which, he said, needed urgent action; Mr. Nixon, on the other hand, is proceeding at a ponderous pace, stretching the State of the Union address over a period of weeks, and cautioning Congress to do nothing without calculating the cost.

But the surface differences are really explained by the differing goals of the two Presidents: Johnson was intent on passing a passel of federal programs; Mr. Nixon's goal, almost directly opposite, is to slow the growth of the federal government, reorganize its structure and decentralize many of its functions to states, cities and individuals.

If you focus, not on their goals but on their methods, the parallels become more clear—and more alarming. Mr. Nixon today seems no more willing than Johnson was at the height of his power to go through the process of patient persuasion. Like his predecessor, he is clearly tempted by the size of his election victory to use plain muscle to get where he wants to go.

Looking at it from his point of view, you can understand the decision. Congress, state and local governments, controlled by the Democrats, are resistant to change. The bureaucracy clings to accustomed programs and procedures. The public is so apathetic barely half its eligible members even stirred themselves to vote.

Facing these forces of inertia, what is a President to do? Explain, argue, cajole, persuade, say "Kindly, please, step this way"? No. He has his mandate. He will act first, and let the explanations come later.

So, if he is Mr. Nixon, he abolishes some agencies, transfers others, impounds funds, freezes allocations, cuts authorizations, all by executive order—and lets the others in the political process react to his initiative. Better that, he figures, than waiting for them to pick up and move.

And it works—at least for a while. The Wall Street Journal's Norman C. Miller was right when he wrote last week that the news reports on the Battle of the Budget are deceptive, that "the barrage of speeches and legislative activity is misleading. The reality is that President Nixon has the congressional Democrats on the run" and will inevitably win most of his objectives.

The courts may—and likely will—eventually rule that Mr. Nixon has exceeded his authority in some instances, but for now, there's no way Congress can compel the President to administer a program he thinks wasteful; no way the bureaucrat can refuse an order to clear out his desk; no way the mayors or governors can hold Mr. Nixon to an agreement they say he has breached; no way the voters can tell the President, "You're misreading the mandate we gave you."

But it's still the wrong way to go. It's wrong, because our government was not intended to operate as a naked clash of wills, Congress imposing on the President or vice versa. This is one government with one set of shared responsibilities. If the government devotes its time to civil war, as is the case now, the victims will be the people it is supposed to serve.

Even if the President "wins" such a struggle, his real purposes lose. One-man government in this country is not just unconstitutional; it's impossible. The kind of policy shift the President is seeking literally cannot work without the understanding and cooperation of Congress, the bureaucracy, state and local officials and the public.

A "victory" obtained at the cost of their antagonism is really no victory at all. In 1965, Johnson may have thought himself justified in badgering the Democratic Congress—which his coattails had elected—in order to pass the legislation he wanted. But vast, ill-considered, unexplained programs cannot be sustained for long by a President's personal drive. Even before Vietnam overwhelmed him, Johnson's thrust was halted in 1966 by the accumulated resentments of the Democratic representatives, senators and governors he had not bothered to consult.

Mr. Nixon is risking the same kind of reaction now in his no less sweeping efforts to decentralize domestic programs. The warning signals were flying last week in the outcry from the big city mayors and such men as Sen. Edmund S. Muskie (D-Maine). Vital allies in the passage last year of the revenue-sharing program that is the keystone of Mr. Nixon's whole domestic strategy, they are now accusing the President of reneging on his commitments to them. What they are trying to tell Mr. Nixon is that he cannot impose his own version of New Federalism by fiat any more than his predecessor could create a Great Society by presidential command.

One can only hope that Mr. Nixon does not miss their message.

[From the Washington Post, Feb. 27, 1973]

SACRIFICING LEGALITY FOR EFFICIENCY

(By David S. Broder)

The man of the week in Washington is Howard Phillips, the 32-year-old acting director of the Office of Economic Opportunity. Phillips is obliterating OEO and the federal antipoverty program even faster than his fellow Harvard man, Henry Kissinger, is ending the Cold War—but to much less general applause.

Because he is going about his work with such enthusiasm that he seems likely to have demolished OEO even before his June 30 target date, Phillips is being attacked as a White House hatchet man. It's a bum rap. He is a 100 per cent true believer in what he's doing, and would take on the job for free if they didn't want to pay him.

His philosophy was summed up in an interview the other evening with Martin Agronsky, in which he said: "One of the things that has disturbed me is the view of many of the organizations that we have funded out of OEO, that poverty is a political and cultural fact of life, rather than an economic fact of life. I don't think poverty is a political question. I don't think it's proper for the government to be in a position of trying to

solve the poverty problem through political means."

With that view, it was inevitable that the efficient Nixon personnel computer would identify Phillips as the ideal person to administer the poverty program. But it discredits young Mr. Phillips to think he is just an antipoverty program fanatic. He is a libertarian conservative, suspicious of all connections between government and the public. One of the 11 "general principles" he handed me when I went to see him last week says, "My political liberty is diminished when the government subsidizes political activities."

This suspicion of government and its works is no new thing for him. Years ago, when he was a junior staffer at the Republican National Committee, we used to lean against the wall and argue about the evils of the welfare state.

Little did either of us dream then that he would be chosen to preside over the death of OEO. Indeed, Phillips expressed his own astonishment during our visit last week at discovering what power an acting director has to put his own agency out of business.

"My first reaction when they outlined it to me was that it couldn't be done," he said. The President, you see, had signed into law last fall legislation extending the life of OEO through mid-1974 and providing funds for its operations—not its abolition—this year.

But by the time the White House lawyers had finished interpreting that legislation, Phillips began to savor the possibilities of striking a blow for libertarianism.

The lawyers' reasoning is a marvelous example of Orwellian Newspeak. When Sen. Abraham A. Ribicoff (D-Conn.) wrote Phillips asking him to identify his authority to abolish OEO and "terminate" or "transfer" its functions, it all turned out to be a phantom. "While the 1974 budget requests no funding for them," the letter of reply said, "the statutory basis for these activities will remain intact." Some programs may be "delegated" to other agencies, but none, Ribicoff was told, is being "transferred."

To translate those legalisms into the sports metaphor that Mr. Nixon likes, that's equivalent to saying that while the Washington Senators have "delegated" their players to the Texas Rangers, their franchise remains "intact." That's a comfort to know, but it doesn't mean you'll find any baseball in Washington this summer. Or any antipoverty program either.

One of the "general principles" Phillips had given me as a guide to his philosophy read, "The elitist notion that our traditional institutions and democratic processes must be bypassed to achieve 'socially desirable' objectives poses a fundamental threat to our system of government."

In light of that statement, I asked him what he thought of Mr. Nixon's end-run around Congress on the abolition of OEO. "That decision," he said, not batting an eye, "was made on the grounds of effectiveness."

For the same reason, it turns out, Mr. Nixon has decided not to submit Phillips' name to the Senate, despite a recent pointed reminder from Sen. Harrison A. Williams, Jr. (D-N.J.), the chairman of the Senate Labor and Public Welfare Committee, that the position of OEO director requires Senate confirmation.

"If my name went up," Phillips said with unassailable logic, "I'd have to spend all my time up there getting confirmed and I'd never get the place dismantled."

So there you have it. Having picked as the poverty program administrator a man who believes that poverty is not "a political question," Mr. Nixon has now authorized him to dismantle the agency, rapidly and totally, despite the fact that its life, under law, is supposed to extend at least until mid-1974. And he is doing it right now without the Senate even having a chance to exercise its statutory and constitutional right to give or withhold its "advice and consent" to the nomination.

All this, mind you, in 1973. It makes you wonder what our government will be like by 1984.

[From the New York Times, Feb. 27, 1973]

TELLING IT NOT QUITE LIKE IT IS

(By Tom Wicker)

President Nixon is on reasonably firm ground in contending that many of the antipoverty and other social programs created by Democratic administrations in the 1960's failed in practice. But the way Mr. Nixon made the case was so partisan and self-serving that he probably was not too persuasive to those considerable number of people who still need convincing.

It was almost incredible to hear him refer in the same radio speech to "one of the most unselfish missions ever undertaken by one nation in defense of another"—the President's view of the war in Vietnam—and then to "paternalism, social exploitation and waste"—his view of Democratic social legislation of the same period. Those who saw the war absorbing funds vitally needed in many areas of American life, and who know that its deceptive financing was the main engine of the inflation with which Mr. Nixon still must wrestle, can only wonder at his sense of priorities.

Mr. Nixon repeated, moreover, his familiar formulation that the Johnson Administration believed it could solve a social problem "by throwing dollars at it." Thus, he took disapproving note of what he said was the "seemingly inexhaustible flood" of money leaving Washington in those years, only to be reduced to "a mere trickle" by the time it reached the supposed recipients.

It may well be that had there been any such "inexhaustible flood" the Johnson programs still would have failed. The fact is, however, that for all the Great Society rhetoric few if any of these programs ever were properly or fully funded—not least because of the cost of the unselfish misison of the American people to save our Vietnamese from the other Vietnamese.

If there is a general indictment of the Johnson programs to be made—any such judgment has to be hedged—it probably is that they were designed around the basic idea of providing services, rather than money, to the poor. Community action programs also generated bothersome political divisions when the "maximum feasible participation" of the poor became more than local political and social structures could tolerate.

But while it is true that not much success can be claimed—obviously—in eliminating poverty and racial disadvantage, these programs may well have had more cumulative importance than Mr. Nixon allows. His former urban affairs counselor, Daniel P. Moynihan, makes the case against the Great Society strategy in his new book, "The Politics of a Guaranteed Income," but adds that in the troubled years of the sixties the publicity excitement and limited impact of these programs may well have been vital in maintaining such stability as there was. At least, they created a brief impression of concern and may even have generated some hope among the intended beneficiaries, at a time when hope was vital.

Mr. Nixon's prime substitute, revenue sharing, is at least as much a gamble—as far as net results are concerned—as anything the Johnson Administration did. Much revenue-sharing money, as was the case with Great Society grants, will go not to the poor but to middle-class workers— to firemen's and policemen's salaries, for instance. Capital projects and local tax reduction will absorb more of it.

And while Mr. Nixon is extolling local responsibility, he might consider expanding local resources. At a time when the Federal budget is under maximum strain, Representative John Anderson of Illinois, one of the most thoughtful Republican legislators, has pointed out that by the last quarter of 1971, state and local governments had a $6-billion surplus of revenues over expenditures, and that this excess was running at a $15-billion annual rate in mid-1972. by 1975, the American Enterprise Institute has estimated, this state and local surplus could be more than $23 billion.

So it may be that Mr. Nixon's revenue-sharing program will turn out to be "throwing dollars" at a surplus. Governmental action on a large scale—such as revenue sharing—can take so long in the American system that it is not unusual for a program to be delayed until the conditions that called for it have been considerably changed.

Finally, Mr. Nixon made much of a big increase in Social Security benefits as a major way in which his Administration was "helping to provide a better life for the American people." Aside from his Administration's opposition to the benefit increase, which was fiscally defensible, the fact is that Social Security does not derive from general revenues but from an employe tax, which must be matched by employers. This is one of the most regressive taxes that Americans have to pay, and it had to be steeply increased to finance the latest round of benefits. The wage base on which the tax is levied also was expanded.

Whether most Americans are better or worse off, as a result, is considerably less certain that Mr. Nixon would have us believe.

[From the New York Times, Feb. 27, 1973]

THE SHORT ROPE

Let us suppose that a man is drowning thirty feet from shore. A rescuer throws him ten feet of rope. He drowns. It would scarcely be logical to conclude: "Rope is of no use in the prevention of drowning."

Yet that is the kind of logic enshrined in President Nixon's budget and set forth over the weekend in his radio talk on "Human Resources." Once again, the President blandly asserts that the Federal programs enacted in the last decade were "based on the asumption that any human problem could be solved simply by throwing enough Federal dollars at it." Money flowed from Washington, according to Mr. Nixon, "in a seemingly inexhaustible flood."

There was no such assumption and no such flood. It is absurd to suggest that sophisticated public servants such as John Gardner and Wilbur Cohen, who served successively as Secretary of Health, Education and Welfare in the Johnson Administration, had the illusion that any human problem could be solved by simply spending money. More to the point, the money was not there to be spent. Every Great Society social problem was seriously underfunded—at levels below Congressional authorizations—because of spending on the Vietnam war between 1966 and 1969.

The nation has difficult and complex problems in educating children from slum families, in providing decent housing for the poor in big cities, in training the unemployed and the seeming unemployable, in delivering adequate health care to the elderly and the impoverished, in aiding rural poor on marginal and substandard farms, in rescuing idle youth and strengthening broken families.

In talking about these problems, President Johnson was sometimes guilty of excessive optimism, because some lives are so blighted that they cannot be turned around and some social circumstances are so adverse that progress can only be slow. But President Johnson was right to try to solve them. It does his successor no credit to distort the record.

Some of the social programs enacted in the 1960's need more time. Still others are not working well and can be improved or halted. When experiments are begun, it is in their nature that some will

succeed, some fail, and some show mixed results.

These programs need patient, determined leadership, and they need careful evaluation, sympathetic as to goals and objective as to results. That leadership and that evaluation are what the programs of the 1960's have not received from today's indifferent caretakers.

Instead, all these social initiatives—Medicare, Medicaid, rent supplements, Title One help for children from low-income families, Head Start, Job Corps, community health centers, legal aid for the indigent, and many others—are lumped together and disparaged as ideas that were tired and shown to be a "dismal failure."

It is easy to abandon the difficult effort to help the approximately thirty million who live in poverty, to stigmatize them as drones and welfare cheats, to revert to the old sink-or-swim philosophy. It may even be temporarily popular. The nation has taken that easy way before and lived for a time with its uneasy conscience. But ultimately the struggle for social justice has to be renewed. It will be again.

A REQUESTED REEVALUATION OF FUNDING FOR SOCIAL PROGRAMS

Mr. INOUYE. Mr. President, last Wednesday, February 21, the Council of the City and County of Honolulu passed a resolution calling on the President and the Congress to reevaluate funding for social programs as proposed by the President in his recent budget message and to restore moneys for those essential programs that have provided needed educational programs that have provided needed educational, health, housing, and manpower services to our citizens in the past.

The Honolulu councilmen and women represent over 80 percent of the people of the State of Hawaii. I believe their voice reflects the prevalent opinion of the people of my State and the bulk of Americans across the Nation. I concur with the sense of this resolution and ask unanimous consent that the text of this resolution be printed in the RECORD.

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

RESOLUTION

Whereas, the preamble to the Constitution of the United States affirms one of our nation's basic objectives to "promote the general welfare"; and

Whereas, recent federal budget announcements indicate severe reductions and deletions in many programs designed to promote the general welfare of the people of each state, including Hawaii; and

Whereas, major reductions and deletions include, but are not limited to the following which directly affect the operations of the City and County of Honolulu:

The scuttling of the Model Cities program which on Oahu has helped thousands of residents to become active in their communities and has improved social, physical, and economic conditions;

The freezing of funds for new water, sewer, and open space projects, public facilities loans and grants to small communities for building water and sewer systems;

The elimination or reduction of numerous manpower programs designed to reduce unemployment, including Concentrated Employment Program (CEP) and Manpower Development Training Program institutional training, Public Service Careers and CEP on-the-job training programs, Neighborhood Youth Corps, and Operation Mainstream;

Proposed shifting to the uncertain fate of Urban Community Development revenue sharing of programs for rehabilitation loans, neighborhood facilities grants and urban renewal; and

Whereas, the following reductions and deletions of other such programs on the state level will adversely affect the health and welfare of the people of the City and County of Honolulu by:

The complete dismantling of the Office of Economic Opportunity and important agencies related to it, including the Community Action Program which in Hawaii has involved many hundreds of our low-income citizens in taking a direct role in decisions affecting their lives and improving their conditions;

The stoppage of housing programs designed to bring relief to the thousands of people in our state who live in overcrowded and dilapidated units at prices they cannot afford, including Section 235 and 236 programs which, along with others, are designed to stimulate construction of moderate income housing; and including U.S. Department of Agriculture loans for low-income rural families and credit for farm labor housing and rural rental and cooperative housing;

The elimination of federal funding for education aid to federally impacted areas amounting to some $10 million in Hawaii alone; and similar elimination of funds to libraries, vocational education training of personnel, new careers in education, training institutes and summer fellowships, P.L. 815 school construction, programs for strengthening state departments of education, drug abuse education, environmental education, and vocational rehabilitation services;

The proposed shifting to the uncertainty of revenue sharing of many educational programs, including education for deprived children, supplementary services, programs for the handicapped, vocational and adult education opportunities;

The cutting of the distribution of social service funds to the states by 40%, leading to the probable loss for Hawaii of $9.5 million to $17.5 million in federal funds for welfare programs through both public and private agencies, including up to $7.5 million in social services and $2 million to $10 million in food, clothing and medical care payments;

The reduction of vital programs for senior citizens including the elimination of dental care for the aging under Medicaid, the stoppage of all research and training under the Administration on Aging, the deletion of expected and necessary expansion of the Retired Senior Volunteer Program, the Foster Grandparent Program, the Senior Corps of Retired Executives, and research on aging under the National Institute of Child Health and Human Development; and

Whereas, the above federal cutbacks, along with many others, will have a serious social and economic effect on the City and County of Honolulu and on the State of Hawaii; now, therefore;

Be it resolved by the Council of the City and County of Honolulu that it does hereby call upon the President of the United States and the Congress to re-evaluate funding for social programs and restore monies proposed to be deleted; and

Be it further resolved that copies of this resolution be transmitted to the President of the United States, Hawaii's Congressional delegation, and the Mayor of the City and County of Honolulu.

BASIC GRANTS

Mr. MONDALE. Mr. President, on February 22, the Education Subcommittee, of which I am a member, held a most informative hearing on the proposed rules for the family contribution schedule for the new basic educational opportunity grants.

I was shocked to learn this week that the proposed rules would discriminate severely against young people from farm families or families which operate small businesses. This discrimination would occur because the assets needed to operate a farm or small business would be treated in the proposed formula in the same way as all other assets, including stocks and bonds and savings accounts.

We were privileged to have testify at the hearing a most able spokesman for higher education, Dick Hawk, executive director of the Minnesota Higher Education Coordinating Commission, Mr. Hawk testified that the median adjusted gross income for farmers in my home State is approximately $3,500 per year. He further pointed out that considerable investment in land and equipment is required to produce even that meager income. Yet, under the proposed guidelines, a child from a family with over $34,000 in assets could not receive a basic grant—regardless of how low the family's income.

It is my sincere hope that as a result of the information brought out at the Education Subcommittee hearing, we will see a modification of the proposed guidelines which would treat all young people who seek a higher education equitably.

I ask unanimous consent that a copy of Mr. Hawk's testimony before the subcommittee be placed in the RECORD.

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

STATEMENT BY RICHARD C. HAWK

Mr. Chairman, members of the Committee. Thank you for this opportunity to comment on proposed regulations for the Basic Educational Opportunity Grant Program, which potentially can make post-secondary education available to many students previously excluded from education beyond high school.

Making post-secondary education realistically accessible to all citizens, regardless of family economic status, is an important national goal and a serious problem worthy of your continuing attention. The Basic Opportunity Grants Program can be a significant means to achieve this goal, if implemented properly. The Congress and the Education Subcommittee are to be commended for establishing such a well formulated program. Those of us who are striving to improve access to post-secondary education in Minnesota have been especially gratified by the persistent interest and effort of our own distinguished senator, Walter F. Mondale.

While some provisions of the proposed BEOG regulations are commendable, other provisions are so deficient as to impair the potential effectiveness of the program. Implementation of the program under the proposed regulations would effectively preclude grants to a significant portion of the most needy students in Minnesota and many other states—those whose families derive their income from farming or operation of small business establishments.

The BEOG Program is appropriately directed to the students who are least able to afford post-secondary education, because as we have found in Minnesota, it is the students from low income families to whom post-secondary education is least accessible.

Indeed, a major thrust of the efforts of the Minnesota Higher Education Coordinating Commission this year has been concerned with mechanisms to improve access to post-secondary education for low income and dis-

advantaged students. The BEOG Program, based on an entitlement principle, can complement our efforts by providing a base upon which state efforts can build.

It is as an entitlement determination system that I have reviewed the proposed guidelines, and it is in this context that my comments are made. I note this context because when balanced against the existing procedures used to determine family ability to pay, the proposed procedures suffer from serious problems. Social security payments and state income tax payments, for example, vary directly with family income level (and coming from Minnesota with a rather hefty state income tax, I should note that income tax varies considerably by state also). This variation is not reflected in the stable allowance which, I assume, is included in the Family Size Offset. Similarly, a family's disposable income is directly affected by the amount of property tax it is required to pay. Although I presume that a housing allowance included in the Family Size Offset includes a standard property tax allowance, it is quite clear that the property tax paid (either directly or indirectly through rent payments) will vary from the standard allowance and will as a consequence, affect the individual family's disposable income and ability to pay in a manner not reflected in the procedure proposed in the guidelines.

I do not, however, consider these problems significant given the entitlement purpose incorporated in the BEOG Program. Given the entitlement concept, the system used to determine eligibility should be sufficiently simple and straight-forward for students to estimate the approximate size of the grant for which they might qualify. The proposed procedure would accomplish this.

The proposed guidelines make another important contribution by establishing standards and definitions that have been problematic in student aid for many years. I refer here to the definition of procedures for Independent Student, for determining what year of income information to use, for identifying what should be counted as unusual expenses, and for defining what should be included as an asset. For years, these concepts have been debated and various procedures and definitions have been used by financial aid administrators. By establishing standard procedures, the guidelines will facilitate greater horizontal equity among students by treating similar students in a similar manner.

There are, however, four problems in the proposed guidelines which need attention. First, there appears to be no appeal procedure for those students whose family or financial situation changes dramatically between the base year (1972 for applicants for the 1973–74 year) and the year in which the student will be enrolled. Although the majority of students are not affected, the student whose family experiences a sudden loss of income (through the death of a father, loss of the father's job, or some other unpredictable event), could be excluded from eligibility to the BEOG Program and, as a consequence, could be deprived of post-secondary education. The system should provide a procedure to meet needs of students who experience sudden income losses.

Second, the proposed procedure for evaluating family assets would effectively exclude the majority of low income farm and small business families. This is a particularly serious problem for a state such as Minnesota where approximately 12 percent of our population is on the farm and roughly seven percent of the families are small business owners. Table I indicates that the median adjusted gross income for farmers in Minnesota is approximately $3500 per year. This would clearly identify students from these families as a target for the BEOG Program because of the very limited disposable income of these families and their relative and absolute inability to bear the post secondary educational expenses of their children. We know also that farmers require significant investment in capital—both land and equipment—to earn an income. The typical farmer needs net capital assets (as opposed to liquid assets) in excess of $34,000 merely to earn a living. Yet, under the proposed guidelines, any family with net assets (regardless of their purpose or nature) in excess of $34,000 is automatically excluded from the BEOG Program. Thus, the effect of these guidelines would be to exclude from the BEOG Program the majority of farm families and a high proportion of small business families who would otherwise qualify because of their low incomes and their inability to pay for the post-secondary expenses of their children. More than 8,000 students from farm families are graduated from Minnesota high schools annually.

TABLE I.—DISTRIBUTION OF MINNESOTA FARMS BY AMOUNT OF SALES AND NET INCOME, 1970

Sales	Number	Percent	Net income
Under $2,500	21,722	19.6	$1,059
$2,500 to $4,999	14,144	12.8	2,049
$5,000 to $9,999	20,976	18.9	3,492
$10,000 to $19,999	27,081	24.5	6,208
$20,000 to $39,999	19,509	17.6	9,962
Over $40,000	7,315	6.6	25,664
Total	110,747	100.0	

Note: Medians: Sales $9,950; net income $3,473; farm population=455,000 or 11.9 percent of total population.

TABLE II.—COMPARISON OF EXPECTED FAMILY CONTRIBUTION FROM INCOME AND NET WORTH DERIVED FROM FEDERAL, CSS AND ACT COMPUTATION PROCEDURES

Computation procedure	Number of dependent children— 1	3	5	7
EFC from income:				
Federal	$701	$412	$208	0
CSS	635	167	(39)	($133)
ACT	690	70	(100)	(340)
EFC from net worth:				
Federal	375	375	375	375
CSS	319	238	165	162
ACT	0	0	0	0
EFC composite:				
Federal	1,076	787	583	375
CSS	954	405	135	29
ACT	690	70	(100)	(340)

[1] Excludes net assets in excess of $15,000 for retirement allowance.

Note: Case data: 2 parents, 1 parent employed; father age 43. Adjusted gross family income equals $7,500; net worth equals $15,000. Only adjustment to family income is the amount of Federal income tax liability.

Third, the proposed guidelines suggest an ability to contribute from both income and assets that is not realistic when compared to the assessments made by the American College Testing Program and the College Scholarship Service. Table II contains a comparison of the contribution expected from parents with income of $7500 and assets of $15,000 under the system proposed in the guidelines and the ACT and CSS need analysis systems. It can be observed that for all family sizes the contribution expected by the procedure outlined in the guidelines, from both income and assets, is considerably in excess of that expected by the two other systems. This suggests that the use of the proposed system will not provide the necessary assistance for the target population to pursue post-secondary education because of an unrealistic expectation of what the family can provide. The danger of this procedure is that it will undermine the significant potential of the BEOG Program by promising more than it will deliver.

My final point is also exemplified in Table II. As family size increases, the difference in the contribution expected by the proposed procedure increases when compared to the ACT and CSS systems. This is undoubtedly caused by inadequate Family Size Offsets in the procedure outlined in the guidelines. Indeed, this should not be surprising when one considers that the proposed allowance for the summer expenses of an Independent Student are set at $700 and the proposed allowance for the expenses of maintaining a two-person family are set at only $2800 for an entire year. It would appear that the Family Size Offsets are considerably below that which is required to maintain a family and that, as family size increases, the Family Size Offsets are increasingly inadequate. The negative potential created by this procedure is emphasized by the fact that large families tend to be concentrated among the lower income segments of the population.

Before concluding, I should like to call your attention to three additional potential problems. Realizing the potential of this program depends on a successful beginning. I would hope, therefore, that the BEOG Program will be implemented by the middle of April at the latest. By this time, institutions have made their awards and are in the process of notifying students. If the program is implemented much later, both students and institutions are likely to be confused by the process.

Second, since the program is based on an entitlement concept, adequate funding is crucial. We cannot afford to raise false hopes. When low income students learn that they are entitled to a grant because they meet the criteria (presumably realistic criteria), the funds necessary to meet students' expectations must be available. Their confidence in this society's ability to deliver on promises is at stake; their confidence in governmental processes hangs in the balance. That is not, I would submit, an insignificant challenge.

Finally, I would appeal to you to provide funding for other student aid programs. The BEOG is appropriately targeted to those students most in need. But, college costs are increasing faster than family incomes, and meeting the rising costs is increasingly difficult for students from middle-income families. It is of interest that a survey of a sample of Minnesota banks revealed that 58 percent do not plan an increase in student loans and 62 percent do not plan to make loans in excess of the subsidized proportion available under the new FISL regulations. Proposed guidelines for the BEOG Program must be reviewed and funding for other student aid programs must be considered in the context of rising costs and inadequate aid for both low and middle income students.

Summarizing, Mr. Chairman, I would propose the following recommendations:

(1) An appeal procedure should be incorporated into the proposed BEOG process to accommodate sudden financial changes for individual students.

(2) The evaluation of family assets should be modified to prevent the systematic exclusion of low income farmers and small business owners from the BEOG Program.

(3) The Family Size Offsets should be adjusted upward to more realistically represent the living expenses of larger families and to provide a more accurate assessment of parents' ability to pay regardless of the family size.

In addition, I would urge this committee to encourage a timely implementation of the BEOG Program, to seek adequate funding of the program and to strive for adequate funding for the other Federal student aid programs.

Thank you, Mr. Chairman, for the opportunity to meet with you. I hope my comments will be helpful in your deliberations.

RENT CONTROLS

Mr. CASE. Mr. President, one of the great problems with the phase II economic program has been the decontrol of apartment rents. With the end of phase II controls, rents have increased as high as 80 percent in my own State. Large increases around the Nation have been reported.

Accordingly, I introduced legislation, along with Senator JAVITS, to restore phase II economic controls on rent, retroactively to January 11, 1973, when the controls were ended by Executive order.

My measure controls rent where vacancy rates are under 5.5 percent, roughly the national average for vacancy. Strict, but fair, economic controls would go into effect in any standard metropolitan statistical area where the vacancy rate went below the national average. Where there are low vacancies the pressure on the tenant is most severe—he has nowhere to go and must pay what is demanded of him. Senior citizens in low vacancy areas are most hard hit by rampant and exorbitant rent increases. The term "rent gouger" is now heard in the households of many thousands of America's senior citizens.

Mr. President, I ask unanimous consent, at the conclusion of my remarks, that information I have obtained outlining rental vacancy rates by standard metropolitan statistical areas, be included in the RECORD.

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

(See exhibit 1.)

Mr. CASE. This table shows where the apartment housing shortage is most critical. I am told that the Census Bureau is preparing a 1972 update and as soon as it is available I will present the information to Congress.

But the 1970 information is still a good guide, particularly when one reviews the general 1972 updated information that is available. It shows an average vacancy rate for the fourth quarter of 1972 in standard metropolitan statistical areas of 5.4 percent. And, as the U.S. Savings and Loan League reported in its 1973 annual report:

> Even Rental Unit vacancy rates have not increased much, despite the record construction of rental units. At 5.8 percent in the third quarter of 1972, the vacancy rate is still well below the average level which prevailed from 1958 to 1967.

Moreover, the vacancy rate in the United States as a whole dropped from 5.8 percent in the third quarter to 5.6 percent in the fourth quarter of 1972.

This is, of course, partly because of the pressure of population and also, in the case of apartment dwellings, because of the rising cost of home buying and mortgage interest rates.

It suggests how critical the housing market is and the terrible bind that apartment renters face across the United States.

Any statistical measure, as we all know, has its shortcomings. High rent increases have been reported in areas where the "statistical" vacancy rate is not so low.

Any number of conditions may account for this—geographic and transportation considerations, the condition of the housing, proximity to shopping and services needed, individual taste and discrimination.

But the enactment of formal controls in low vacancy areas will go a long way to solving the problems facing rent payers. Moreover, our rent measure in no way precludes enforcement of so-called general standards in areas where exorbitant increases may be found. This power is conferred under the general language of the Economic Stabilization Act.

EXHIBIT 1

Rental vacancy rates, 1970, by standard metropolitan statistical areas

[Percent vacancy]

Abilene, Tex	12.6
Akron, Ohio	6.0
Albany, Ga	8.4
Albany/Schenectady, Troy, N.Y	5.3
Albuquerque, N. Mex	5.5
Allentown/Beth./Easton, Pa./N.J	4.2
Altoona, Pa	4.2
Amarillo, Tex	15.1
Anaheim, Santa Ana/Garden Grove, Calif	7.5
Anderson, Ind	9.0
Ann Arbor, Mich	5.1
Appleton/Oshkosh, Wis	3.7
Asheville, N.C	7.5
Atlanta, Ga	6.2
Atlantic City, N.J	10.6
Augusta, Ga./S.C	10.0
Austin, Tex	11.1
Bakersfield, Calif	7.5
Baltimore, Md	5.3
Baton Rouge, La	13,9
Bay City, Mich	8.2
Beaumont/Port Arthur/Orange, Tex	11.2
Billings, Mont	5.8
Biloxi/Gulfport, Miss	11.0
Binghampton, N.Y./Pa	6.4
Birmingham, Ala	6.3
Bloomington/Normal, Ill	4.7
Boise City, Idaho	4.3
Boston, Mass	4.2
Bridgeport, Conn	3.7
Bristol, Conn	5.4
Brockton, Mass	4.3
Brownsville/Harlington, Tex	14.4
Bryan-College Station, Tex	9.3
Buffalo, N.Y	4.5
Canton, Ohio	6.1
Cedar Rapids, Iowa	10.3
Champaign, Urbana, Ill	3.4
Charleston, S.C	12.3
Charleston, W. Va	6.3
Charlotte, N.C	6.4
Chattonoga, Tenn./Ga	8.0
Chicago, Ill	6.4
Cincinnati, Ohio/Ky./Ind	6.8
Cleveland, Ohio	6.2
Colorado Springs, Colo	9.4
Columbia, Mo	7.7
Columbia, S.C	8.8
Columbus, Ga./Ala	9.9
Columbus, Ohio	6.6
Corpus Christi, Tex	12.6
Dallas, Tex	10.4
Danbury, Conn	4.5
Davenport/Rock Island/Moline Iowa-Ill.	9.0
Dayton, Ohio	5.1
Decatur, Ill	6.0
Denver, Colo	5.2
Des Moines, Iowa	8.4
Detroit, Mich	7.8
Dubuque, Iowa	5.5
Duluth, Superior, Minn., Wisc	6.3
Durham, N.C	5.1
El Paso Tex	6.4
Erie, Pa	5.7
Eugene, Oreg	4.9
Evansville, Ind./Ky	7.4
Falls River Mass./R.I	3.1
Fargo/Moorhead, N. Dak., Minn	7.1
Fayetteville, N.C	9.4
Fitchberg, Leominster, Mass	5.8
Flint, Mich	7.4
Fort Lauderdale/Hollywood, Fla	12.3
Fort-Smith, Ark., Okla	8.6
Fort Wayne, Ind	9.9
Fort Worth, Tex	12.2
Fresno, Calif	5.9
Gadsden, Ala	6.9
Galveston, Texas City, Tex	9.7
Gainesville, Fla	9.3
Gary, Hammond, East Chicago, Ind	6.2
Grand Rapids, Mich	10.0
Great Falls, Mont	6.0
Green Bay, Wis	4.9
Greensboro/Winston Salem, N.C	5.6
Greenville, S.C	8.2
Hamilton, Middletown, Ohio	5.3
Harrisburg, Pa	4.5
Hartford, Conn	3.6
Honolulu, Hawaii	4.5
Houston, Tex	11.6
Huntington-Ashland, W. Va./Ky./Ohio	8.4
Huntsville, Ala	8.7
Indianapolis, Ind	10.4
Jackson, Mich	6.4
Jackson, Miss	8.1
Jacksonville, Fla	11.6
Jersey City, N.J	2.9
Johnstown, Pa	4.1
Kalamazoo, Mich	6.5
Kansas City, Mo.-Kans	10.2
Kenosha, Wis	3.9
Knoxville, Tenn	8.5
La Crosse, Wis	5.0
Lafayette, La	9.2
Lafayette, W. Lafayette, Ind	7.1
Lake Charles, La	10.8
Lancaster, Pa	3.4
Lansing, Mich	7.2
Laredo, Tex	6.2
Las Vegas, Nev	6.3
Lawrence-Haverhill, Mass-N.H	6.9
Lawton, Okla	12.6
Lewiston-Auburn, Maine	7.7
Lexington, Ky	12.7
Lima, Ohio	6.0
Lincoln, Neb	7.6
Little Rock, Ark	8.2
Lorain, Elyria, Ohio	7.1
Los Angeles, Long Beach, Calif	5.2
Louisville, Ky./Ind	7.0
Lowell, Mass	5.2
Lubbock, Tex	10.6
Lynchburg Va	7.4
Macon, Ga	9.7
Madison, Wis	4.5
Manchester, N.H	5.4
Mansfield, Ohio	6.7
McAllen-Pharr, Tex	10.7
Memphis, Tenn./Ark	5.4
Meridan, Conn	4.2
Miami, Fla	5.2
Midland, Tex	15.7
Milwaukee, Wis	4.7
Minneapolis-St. Paul, Minn	5.3
Mobile, Ala	10.0
Modesto, Calif	5.9
Monroe, La	9.9
Montgomery, Ala	12.2
Muncie, Ind	7.2
Muskegon, Mich	7.1
Nashua, N.H	8.9
Nashville, Davidson, Tenn	7.2
New Bedford, Mass	3.3
New Britain, Conn	4.1
New Haven, Conn	4.4
New London, Groton, Norwich, Conn	6.8
New Orleans, La	8.9
New York, N.Y	2.1
Newark, N.J	2.8
Newport News, Hampton, Va	7.4
Norfolk-Portsmouth, Va	5.6
Norwalk, Conn	2.6
Odessa, Tex	15.4
Ogden, Utah	6.9
Oklahoma City, Okla	11.5
Omaha, Nebraska/Iowa	7.8
Orlando, Fla	12.5
Owensboro, Ky	7.9
Oxnard-Ventura, Calif	4.9
Paterson-Clifton-Passaic, N.J	1.5
Pensacola, Fla	12.1

EXHIBIT 1—Continued

Rental vacancy rates, 1970, by standard metropolitan statistical areas—Con.

Peoria, Ill	6.0
Petersburg-Colonial Heights, Va	6.3
Philadelphia, Pa./N.J	5.0
Phoenix, Ariz	7.2
Pine Bluff, Ark	10.8
Pittsburgh, Pa	5.8
Pittsfield, Mass	4.5
Portland, Maine	6.4
Portland, Oreg./Wash	7.4
Providence/Pawtucket, R.I., Mass	5.6
Provo, Utah	3.7
Pueblo, Colo	7.5
Racine, Wis	4.8
Raleigh, N.C	6.0
Reading, Pa	3.6
Reno, Nev	5.6
Richmond, Va	5.6
Roanoke, Va	6.7
Rochester, Minn	8.6
Rochester, N.Y	4.9
Rockford, Ill	9.2
Sacramento, Calif	6.2
Saginaw, Mich	6.0
St. Joseph, Mo	10.7
St. Louis, Mo./Ill	9.6
Salem, Oreg	6.2
Salinas-Monterey, Calif	4.4
Salt Lake City, Utah	4.5
San Angelo, Tex	9.2
San Antonio, Tex	9.4
San Fernando-Riverside, Calif	4.6
San Diego, Calif	6.9
San Francisco, Oakland, Calif	4.6
San Jose, Calif	6.4
Santa Barbara, Calif	5.3
Santa Rosa, Calif	5.4
Savannah, Ga	7.5
Scranton, Pa	4.0
Seattle, Everett, Wash	13.2
Sherman-Denison, Tex	11.1
Shreveport, La	10.6
Sioux City, Iowa-Nebr	11.0
Sioux Falls, S. Dak	7.0
South Bend, Ind	6.9
Spokane, Wash	7.2
Springfield, Ill	6.4
Springfield, Mo	7.1
Springfield, Ohio	5.7
Springfield, Holyoke Mass./Conn	6.2
Stanford, Conn	2.4
Steubenville Ohio/W. Va	5.8
Stockton, Calif	5.9
Syracuse, N.Y	6.5
Tacoma, Wash	10.3
Tallahassee, Fla	6.1
Tampa-St. Petersburg, Fla	10.5
Terre Haute, Ind	7.6
Texarkana, Ark	11.2
Toledo, Ohio, Mich	5.4
Topeka, Kans	5.4
Trenton, N.J	3.2
Tucson, Ariz	8.0
Tulsa, Okla	12.5
Tuscaloosa, Ala	9.6
Tyler, Tex	8.7
Utica-Rome, N.Y	5.0
Vallejo-Napa, Calif	5.1
Vineland-Milleville-Bridgeton, N.J	5.2
Waco, Tex	12.3
Washington, D.C./Md./Va	4.4
Waterbury, Conn	6.1
Waterloo, Iowa	6.0
West Palm Beach, Fla	10.7
Wheeling, W. Va./Ohio	6.6
Wichita, Kans	11.0
Wilkes-Barre-Harrisburg, Pa	3.8
Wilmington Del.-N.J. Md	5.6
Wilmington, N.C	14.0
Worcester, Mass	3.8
York, Pa	3.1
Youngstown-Warren, Ohio	5.0

[From the Washington Post, Feb. 24, 1973]

LOW VACANCY RATES HIGHLIGHTED IN REPORT

Low vacancy rates in both single-family and multi-family housing and a rise in consumer buying expectations generally indicate a strong year of housing output, according to the United States Savings and Loan League. But there are dissenting views.

In an annual report, the league pointed out that the vacancy rate on single-family homes in the third quarter of 1972 was 0.9 per cent, the lowest level since 1960.

Even rental units vacancy rates have not increased much, despite the record construction of rental units.

"At 58 per cent in the third quarter of 1972, the rental vacancy rate is still well below the average level which prevailed from 1958 to 1967," the publication stated.

According to the report, an optimistic view of the 1973 housing scence is not reflected by all observers, several of whom are forecasting a significant decline in housing.

The publication said that the decline analysis is based on the premise that the pent-up depend of the late 1960's has been met and the annual demands since then have been easily accommodated.

The publication flatly states that much of the confusion about how much housing is needed stems from "hopelessly inaccurate" projections by the Census Bureau. According to the Bureau's old household formation projections—which formed the basis for the 10-year national housing goal of 26 million units—the supply of new units including mobile homes during 1971–1972 has exceeded these projections and overbuilding has resulted.

"The major error of this analysis results from the fact that these household projections have been found to be hopelessly inaccurate," the report declared. "Census estimates of household formations through March 1972 show the old projections to have underestimated household formations by over 1.2 million. Moreover, the error has been widening during the last few years. . ."

TABLE 1.—QUARTERLY RENTAL VACANCY RATE: 1970–72

Year and quarter	United States	In SMSA	Central city	Not central city	Outside SMSA	Northeast	North Central	South	West
1970:									
1st	5.4	5.1	5.3	4.7	6.3	2.4	6.0	7.7	5.6
2d	5.4	4.9	5.1	4.7	6.7	2.9	5.9	7.1	5.8
3d	5.3	4.8	5.4	3.9	6.7	3.1	5.9	7.1	5.2
4th	5.2	4.9	5.5	4.0	5.8	2.6	5.6	6.8	5.7
1971:									
1st	5.3	5.0	5.3	4.6	6.1	2.4	6.1	7.4	5.4
2d	5.3	4.8	5.4	4.0	6.4	3.0	5.3	7.2	5.6
3d	5.6	5.2	5.5	4.8	6.7	3.0	5.6	7.4	6.5
4th	5.6	5.2	5.5	4.7	6.6	3.5	6.0	7.4	5.3
1972:[1]									
1st	5.3	5.1	5.1	5.0	5.8	3.2	5.9	6.7	5.3
2d	5.5	5.3	5.8	4.6	6.2	3.0	6.7	6.9	5.7
3d	5.8	5.7	5.9	5.5	6.2	3.2	6.2	7.3	6.7
4th	5.6	5.4	6.2	4.2	6.3	3.9	5.5	7.0	6.1

[1] Data on condition of unit not collected after December 1971. Vacancy rates for 1956 to 1967 are estimates: Figures were derived by assuming the ratio of dilapidated to not dilapidated vacancies was the same as the quarterly data reported in 1968.

Figures for 1970 to 1972 revised to include dilapidated vacant for rent units.

Source: Series H-111 reports.

NOTES

All figures above computed using the currently used definition of "rental vacancy rate"—i.e.' percentage of vacant units available for rent (including those in dilapidated condition) to the total inventory of rental units.

[From the Washington Post, Feb. 28, 1973]

LANDLORDS ASK PROBE OF RAISED RENTS

(By Jay Matthews)

Officers of a landlord association representing 220,000 apartment units in the Washington metropolitan area voted yesterday to ask the White House for an investigation of a recent wave of rent increases here.

The board of directors of the Building Owners and Managers Association voted unanimously to ask President Nixon to give the Cost of Living Council power to investigate and roll back rent increases that exceed 6 per cent.

John T. O'Neill, executive vice president of the association, said the directors felt only sharp increases in local government fees and taxes would justify increases above 6 per cent.

O'Neill said the group wanted the federal government to step in before local jurisdictions enact an array of conflicting rent control ordinances to soothe their tenant constituents.

"Essentially, we feel this is necessary to eliminate the confusion and chaos that is going to occur if you have various jurisdictions across the country adopting regulations," O'Neill said.

Officials in Montgomery and Prince Georges counties are now considering rent control ordinances in the wake of angry outcries from tenant groups. Tenants have complained that some area landlords, including some members of O'Neill's association, have ordered increases as high as 25 or 35 per cent.

O'Neill encouraged the board of directors to take their action after meeting Monday with Ira M. Lechner, chairman of the Arlington tenant-landlord commission.

THE GENOCIDE CONVENTION AND THE UNITED NATIONS

Mr. PROXMIRE. Mr. President, article VIII of the Genocide Convention defines the role of the United Nations with respect to the crime of genocide.

The authors of the convention believed that whenever individuals or groups band together to destroy racial, religious, ethnic or national groups, these acts are a threat to peace and harmony in the international community.

History supports this conviction. When Hitler's Germany engaged in systematic extermination of Jews and other peoples it deemed inferior, these acts of terror caused worldwide concern and evoked in-

ternational condemnation. Although the outbreak of World War II had already shattered world peace, the genocide committed by the German Government caused even greater heartache and world disharmony.

For this reason the framers of the Genocide Convention rightly gave the United Nations responsibility for helping to prevent genocide. Article VIII of the Genocide Convention states:

> Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

A major question raised at hearings of the Senate Foreign Relations Committee during the 92d Congress was whether ratification of the convention would significantly enlarge the United Nations powers.

Close examination of the Genocide Convention by this committee showed that its acceptance by United Nations members would only give that international organization additional responsibility, not additional power. Article VIII specifically states that the United Nations may only take action which is both permitted by its charter and considered appropriate by its members. The Charter of the United Nations limits the scope of its action. Article 2(7) of the charter prohibits the United Nations from intervening in matters which are "essentially within the domestic jurisdiction of any state."

However, mass murder on a broad scale would pose a threat to world peace and it would clearly be within the powers of the United Nations to discuss it. Thus, as a practical matter, the United Nations can discuss alleged acts of genocide in the United States or anywhere else any time it chooses to do so. In the opinion of the Senate Foreign Relations Committee, it is quite certain that charges of this nature will be made in the United Nations against this country, whether we do or do not ratify the convention, for propaganda and other purposes. Such statements have already been made and are likely to continue, because our position in the free world makes us the No. 1 target for a barrage of unjustified comments.

We must ask ourselves whether we will continue to give those nations the upper hand in the propaganda battle by not ratifying the Genocide Convention. Our failure to ratify this treaty has already proved an embarrassment to our delegates to the United Nations. In the face of allegations that this Nation has committed genocide, the fact that we have not become party to the convention has lent color to such charges.

We must make every effort not to give credence to spurious charges that the United States is not willing to extend its belief in the most fundamental human right, the right to live, to the rest of the world. The Genocide Convention elevates our long-established tradition for the dignity of man and respect for human life to the status of an international agreement.

I, therefore, urge the Senate to ratify the Genocide Convention and once again prove our commitment to human rights.

THE OIL IMPORT QUOTA

Mr. McGOVERN. Mr. President, I am pleased to join my distinguished colleague from New Hampshire (Mr. McINTYRE) in introducing legislation which is long overdue to abolish the needless and harmful oil import quota system.

Nearly 3 years ago the President received a report from a Cabinet-level task force headed by George Schultz, now Mr. Nixon's principal economic counselor, which recognized that the oil import quota system had outlived its usefulness, if indeed it was ever useful.

The President disregarded the recommendation, which was made after serious and careful study, and acted instead on a terse memorandum from Peter Flanigan which rationalized the continuation of import quotas on petroleum.

Supporters of the oil import quotas have worn out their argument that it is a program for protecting the national security. In truth, it is nothing more than a program to protect the profit security of the big oil companies. It adds at least $5 billion a year to the cost of oil, gasoline, and other products indispensable in our energy-dependent economy. And it has had a great deal to do with the heating oil shortage which plagued most of the Midwest this winter, and now threatens to bring about a gasoline shortage this summer.

In the words of one of Mr. Nixon's former energy advisers, S. David Freeman, who was Deputy Director for Energy and the Environment for the White House Office of Science and Technology, it is a "drain America first" policy.

We are told that the President will deliver an energy message to the Congress within the next few weeks. Reporters have speculated that he will recommend more exploration for oil in offshore areas, a policy that is pregnant with the risk of oil spills on our beaches and conversion of industrial and electric generating plants from oil burning to coal burning, which would increase the pressure for more strip mining of coal.

What we are suggesting in this legislation is a clear alternative to a policy of storming the beaches and stripping the hills. We can import world oil at prices lower than existing domestic oil prices. Such a policy would lessen the demand on natural gas, which the energy companies and the administration tell us, but decline to prove, is in short supply. It would lessen the demand for coal, which fouls the air with particulate and leaves the land scarred.

The Congress, while recognizing the critical importance of this legislation, should realize that it is just part, albeit an important part, of reform of our crazy-quilt energy policies. It must be followed by strip mine control legislation with adequate restrictions and provisions for land reclamation. It must be followed by bold steps to end the profligate waste of energy which has become a built-in luxury in our society. It must be followed by adequately financed energy research and development legislation. And it must be followed by wholesale revision of our land use practices.

The oil import quota system has served the energy giants well. It has served America poorly.

Even the slight relaxations in oil import quotas of recent weeks have served only the major oil companies. The small farmer-owned petroleum cooperatives, which serve more than one-fourth of U.S. farm needs for fuel, and half in my State, have not benefited. They have been unable to use all their import quotas. A cooperatively owned refinery in the Midwest has been forced to close, because it could not obtain enough crude oil.

Perhaps the big oil companies are beginning to see the end of the road for their most favored nation status. Writing in the Oil and Gas Journal, the bible of the major oil companies, On December 25, 1972, writer Gene Kinney says:

> The Administration rejected the proposed tariff system two and a half years ago, partly because you supposedly can't fine-tune tariffs. Now it has fine-tuned quotas into a shortage. If you're juggling this bundle of contradictions in the White House, the desire for something simpler must be overwhelming.

* * * * *

NATIONAL ENGINEER'S WEEK

Mr. MOSS. Mr. President, engineers are a breed apart in so many ways—they do so many things with such consumate skill and such finite accuracy, and they see things so clearly in their world of hard sciences that I admire them and their achievements.

Six of the most prestigious professional societies of engineers:

The American Institute of Aeronautics and Astronautics.

The American Society of Chemical Engineers.

The American Society of Civil Engineers.

The American Society of Mechanical Engineers.

The Institute of Electrical and Electronics Engineers.

The National Society of Professional Engineers have joined together on the occasion of National Engineer's Week to send an open letter to the President and the Members of the 93d Congress.

The letter is such a marvelous offer of support for our country, such a dedication to our way of life and enthusiasm for the future that I congratulate the presidents and members of these societies and ask unanimous consent that their letter be printed in the RECORD.

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

FEBRUARY 23, 1973.

Hon. FRANK E. MOSS,
U.S. Senate.

MY DEAR SENATOR MOSS: As the United States ushers in a new era of peace, the nation's scientists and engineers salute you and bring you greetings and reaffirm our pledge of full support on the occasion of National Engineers Week.

In addition to pledging our support, we invite your attention to a pressing national need upon which the continued health and prosperity of our country depends—the need to develop a planned, sustained, and far-

sighted policy for use of the nation's science and engineering resources.

Simultaneously, we offer our earnest cooperation and talents in helping to devise such a policy and in providing for its rational execution. Such a national policy in science should encompass the following goals:

1. The establishment of national programs to deal with such pressing problems as future sources of energy; providing safe, clean, efficient, economical transportation for all; improved and more economical methods of communication; delivery of adequate health care; protection of individuals and the nation from attack; the controlled use of our national and natural resources, with proper regard for environmental effects and economic impact.

2. Effective mobilization of our scientific and engineering manpower. Improvement of technical training at the vocational and secondary school levels in order to insure opportunities to every segment of our population. Avoiding either an over abundance of technically trained manpower, or, just as seriously, a severe shortage leading to crisis situations in the future. The nation must curb the gigantic pendulum swings of "feast or famine" which have so characterized our lack of policy for efficient use of our vast technological resources in the recent past.

3. Careful management and husbanding of all of our vital natural resources—of materials, energy and manpower—so that future generations of men can share the benefits of our technological progress.

We look upon the relationship of the government and the scientific and engineering community as a mutually beneficial partnership whereby both the general public and the members of the technological community share a common interdependence for progress and benefit.

This partnership in the past has enabled our nation to be the technological leader of the world in giving to all mankind such developments as atomic energy, the transistor, manned exploration of the moon, the computer, television and Telstar, synthetic fibres, new methods of construction of homes, offices, factories, schools, churches, roads, bridges, and tunnels, the cardiac pacemaker and other life saving devices.

We have developed laboratories and research centers in our great universities, independent research laboratories, industrial complexes, and government centers, all working in partnership to provide new technologies, products and jobs.

We have also established one of the finest educational systems, from grade school through graduate school, to produce trained minds in science, engineering, basic and applied research, and management in order to conquer ignorance and turn our many discoveries to the service of man.

But this entire complex will be of no avail unless there is a nationally formulated series of goals and objectives for men, methods, and materials to maintain proper balance between supply and demand and to insure that all of our national priorities are being adequately met.

Our societies offer their services to our nation for this task. We are confident that we can work with our President and the Congress in forging the plowshares for a century of peace from the swords we have now put aside.

HOLT ASHLEY,
President, AIAA.
JOHN E. RINNE,
President, ASCE.
HAROLD CHESTNUT,
President, IEEE.
L. WEAVER,
President, AICHE.
RICHARD G. FOLSOM,
President, ASMA.
JAMES F. SHEILER,
President, NSPE.

PAYMENT OF JUDGMENTS IN FAVOR OF THE SAC AND FOX INDIANS, AND FOR OTHER PURPOSES

Mr. DOLE. Mr. President, I am pleased to join with the Senators from Nebraska (Mr. HRUSKA and Mr. CURTIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Kansas (Mr. PEARSON) in support of the bill S. 990 to provide for the disposition of funds appropriated to pay judgments in favor of the three Sac and Fox Indian tribes.

The Sac and Fox Indians have been awarded judgment funds in docket No. 135 by the Indian Claims Commission and Congress has already appropriated the money to fulfill this claim. However, before payment can be made Congress must enact legislation detailing the distribution of these funds.

Mr. President, the Sac and Fox tribes composing the Sac and Fox Nation have always been closely affiliated, but they were distinct tribal entities at the time the 1837 and 1842 treaties were made, and they are still separately organized. Today each tribe has an approved constitution and bylaws and a council as the governing body of the tribe. Also, each has a committee of officers with authority to transact business and otherwise speak and act on behalf of the tribe. As of March 31, 1971, there were 1,956 enrolled in the tribe in Oklahoma, 779 in the tribe in Iowa, and 227 in the tribe in Kansas and Nebraska. A sizable number of the members of the tribe in Oklahoma and the tribe in Iowa live on reservations in Oklahoma and Iowa that were set aside for their tribes in the late 1800's. No members of the tribe in Kansas and Nebraska now live on the 7,924 acres provided for the tribe in Brown County, Kans., and Richard County, Nebr., by a treaty of 1861, but 20 members live in the vicinity, and many others live in Kansas and Missouri. Of the land originally contained in the Missouri reservation only 119 acres remain in Indian ownership.

Mr. President, this bill calls for a percentage distribution based primarily on the original landholdings of the three tribes. This bill specifies that 46 percent of the judgment and all future judgments shall go to the tribe of Oklahoma, 39 percent to the tribe in Iowa, and 15 percent to the tribe in Kansas and Nebraska. Due to differences in tribal enrollment requirements, it would be unfair to distribute the funds on a basis of current enrollment. In a joint meeting of the three Sac and Fox Tribes in Kansas City on July 24, 1971, the tribes voted 2 to 1 in favor of the division of claims as stated in this bill.

Mr. President, I am particularly interested in these payments since there are many Kansans in the 227-member Sac and Fox Tribe of Missouri in Kansas and Nebraska, and these Kansans have made valuable contributions to our State and should now receive an expeditious handling of their legislation.

ADULTERATED FRUITS AND VEGETABLES

Mr. RIBICOFF. Mr. President, on February 21, the General Accounting Office released a report documenting the failure of the Department of Agriculture to cooperate with the Food and Drug Administration to protect consumers against adulterated frozen and canned fruits and vegetables. This report is the latest in a series of GAO reports which have revealed appalling conditions in the processing of food for American families and the continuing failure of governmental agencies to protect American consumers against dangerous and substandard products.

On June 24, 1970, and again on February 18, 1972, the GAO issued reports calling attention to filthy conditions in the processing of meat and reprimanding the Agriculture Department for the failure of its inspection programs to remedy these conditions. On November 16, 1971, a GAO report revealed similar conditions in poultry processing plants and once more found the Agriculture Department negligent in protecting consumers. On April 18, 1972, GAO reported that FDA's inspection of food manufacturing plants was grossly inadequate and that some 40 percent of the plants inspected were operating under insanitary conditions. The latest report further documents the failure of governmental agencies to provide consumers with the assurance that their food is safe and unadulterated.

The Food and Drug Administration and the Agricultural Marketing Service of the Department of Agriculture both operate inspection programs for food manufacturing plants. The FDA inspects all food plants except for those processing meat, poultry, and egg products. Although FDA inspection programs have recently been expanded, they are still inadequate to assure that the plants are operating under sanitary conditions.

There are over 60,000 food processing establishments in the United States. Of these, FDA is able to inspect only about 8,500 each year. Thus, the average plant is inspected only about once every 7 years. Such an inspection program is clearly inadequate. Moreover, many plants are not inspected even that often in areas which FDA does not designate as an inspection priority. In recent years, FDA has not given priority to inspection of processed fruits and vegetables.

Inspections conducted under the grading programs of the Agriculture and Marketing Service—AMS—of USDA are considerably more extensive. In some plants there is continuous in-plant inspection in which Agriculture and Marketing Service employees are present at all times. In others, inspection is less extensive, but in nearly all cases, it is more intensive than the FDA's inspection programs.

AMS grading programs differ from FDA inspection in several respects. The AMS program is entirely voluntary; inspections take place only in plants under contract with the AMS for such inspections. In addition, while FDA inspection is financed out of the U.S. Treasury, AMS inspections are paid for by the companies which contract with AMS for the inspection. There are approximately 1,400 fruit and vegetable processing plants nationwide. Approximately 35 percent of all canned fruits and vegetables produced in 1971 were subject to in-plant inspection by AMS, and ap-

proximately 75 percent of all frozen fruits and vegetables.

GAO inspectors visited 40 fruit and vegetable plants. At 23 of the 40 plants, AMS and GAO inspectors found conditions which were classified as either "major insanitary conditions" or "critical insanitary conditions." A "major insanitary condition" is one which is defined as a condition which may result in product contamination or which is obnoxious and definitely undesirable. A "critical insanitary condition" is one of such magnitude that product contamination is imminent. Deficiencies at the plants inspected included dirty equipment, slime, rust, condensation, flaking paint, oil or grease drippings, unprotected lights, unscreened openings, and the presence of insects.

When such conditions are noted, AMS brings them to the attention of the plant management. Even when AMS finds adulterated food, however, it takes no action to assure that such food does not reach American consumers, but rather leaves disposition of the food entirely to the manufacturers. The only consequence of an AMS rejection is that the food cannot be labeled as graded by USDA.

The GAO study indicates that adulterated food often reaches the market even after AMS rejects it as substandard. With respect to a sample of 31 lots of adulterated food, comprising 545,000 pounds of products, GAO found that at least 14 lots had been released for distribution in commerce. An additional 10 lots could not be traced.

Under the Food, Drug, and Cosmetic Act, the FDA is required to assure that adulterated food is not put on the market. Yet, as we have seen, FDA inspection procedures are not capable of detecting the vast majority of adulterated food. And, as the GAO report shows, the Agriculture Department has consistently refused to supply the FDA information about adulterated food or insanitary plant conditions which it finds in the course of its grading inspection. While the Agriculture Department has agreed to supply the FDA with information concerning products which are deemed "hazardous to health," it continues to refuse to supply information concerning adulterated food or insanitary plants when the products are not deemed "hazardous to health."

Thus, FDA is being denied by a sister government agency information necessary to the effective performance of its statutory functions, and consumers are being exposed to adulterated food processed in insanitary conditions.

AMS refuses to supply FDA with the needed information because it believes that plants using the grading service would thereby be placed at a competitive disadvantage with plants that do not use the service. Thus, plants which contract with the Agriculture Department for the grading of food, thereby immunize themselves from the effective enforcement of Federal law. A program which purports to provide protection to consumers instead serves as a vehicle for frustrating the interests of consumers.

The lack of effective interaction between USDA and FDA with respect to food inspection exists in other areas as well. USDA regulation of animal vaccines is often inconsistent with FDA regulation of animal drugs. USDA's role in inspecting and testing meat for dangerous residues of animal drugs often frustrates FDA's statutory obligation to assure that food is free of cancer-causing residues. And now we find that USDA refuses to supply FDA with crucial information from its food grading program to the detriment of FDA's programs and the public.

This lack of cooperation and coordination between Federal agencies presents an intolerable barrier to effective consumer protection. We have for years been reassured by the agencies involved that new working agreements would be developed to remedy long-standing problems. Lengthy agreements are negotiated but the problems remain; regulations are published but laws continue to go unenforced; paper is shuffled but the consumer continues to go unprotected.

Responsibility for the protection of consumers from adulterated food must be consolidated. A single agency must have sufficient authority and full responsibility for the Federal role in food regulation. To accomplish this consolidation, I shall be introducing legislation to bring together in one agency the functions performed so inadequately by several agencies. The primary transfers of authority will involve the consumer protection functions now performed by the Department of Agriculture. Today's GAO report it only another piece of evidence that those functions are not now being performed well.

I am convinced that consolidation is a necessary prelude to the development of effective consumer protection from adulterated food.

I ask unanimous consent that a summary of the GAO report be inserted in the RECORD.

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

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS—DIGEST

WHY THE REVIEW WAS MADE

The General Accounting Office (GAO) made this review to determine what controls the Agricultural Marketing Service and the Food and Drug Administration (FDA) had over fruits and vegetables which did not meet U.S. grade standards.

GAO also reviewed the Service's effectiveness in enforcing its requirement that fruit and vegetable processing plants which receive its grading service be maintained under sanitary conditions.

Background

The Service, upon request and on a reimbursable basis, provides grading service in fruit and vegetable processing plants to help promote the marketing of processed—generally canned or frozen—fruits and vegetables. To receive the service, a plant must be maintained under sanitary conditions. In addition to providing grading, Service employees examine products for cleanliness and wholesomeness and watch plant sanitation.

During fiscal year 1971 the Service provided grading service for about 35 percent, or 7.1 billion pounds, of the canned fruits and vegetables and about 75 percent, or 3.8 billion pounds, of the frozen fruits and vegetables processed in this country.

FDA has primary Federal responsibility for inspecting foods—except meat, poultry, and egg products—and for insuring that foods entering interstate commerce are safe and wholesome and that adulterated and misbranded products are removed from the market.

FDA enforces the Federal Food, Drug, and Cosmetic Act, which is intended to assure the consumer that, among other things, foods are pure, safe to eat, and produced under sanitary conditions. Under the act FDA, whose programs are directed at the single, overall objective of consumer protection, is authorized to initiate Federal action against plants and individuals who cause foods to become adulterated or misbranded.

A 1953 agreement between the Service and FDA set out arrangements for carrying out activities having common or related objectives. FDA, whose food inspection activities were the subject of a separate GAO report (B–164031(2)) issued April 18, 1972, inspects fruit and vegetable processing plants infrequently.

FINDINGS AND CONCLUSIONS

Need to control processed fruits and vegetables which may be adulterated

About 15 billion pounds of fruits and vegetables were subject to grading from January 1, 1970, through March 31, 1971. During that period the Service identified about 39 million pounds in 132 plants that did not meet U.S. grade standards because the products had excessive foreign materials—such as worms, insects, oil, mud, rot, rust, or paint flakes—or because the products had been packed under unsanitary conditions.

The Service, in accordance with its normal procedures, did not control such products but left their disposition to the processors. Also FDA did not routinely obtain from the Service information on these products which might have been adulterated and, if so, should not have been distributed in interstate commerce.

The Federal Food, Drug, and Cosmetic Act requires FDA to prevent the distribution of adulterated products in interstate commerce and requires other Federal agencies to make their records available for FDA inspection. The 1953 agreement between the two agencies provided that the Service furnish FDA with information on products graded only when FDA requested it and then only on lots specifically identified by FDA.

GAO asked FDA to investigate some of these products, and FDA said that it would consider them adulterated if its analyses confirmed the presence of the indicated contaminants. FDA investigated 31 production lots, comprising about 545,000 pounds, at 18 plants.

FDA collected and analyzed samples from two lots which had been shipped in interstate commerce. Its analyses showed that the products were adulterated, and it approved their seizure. FDA reported that three other lots had been destroyed, or diverted for use as cattle feed, by the plants and that most of the remaining 26 lots had been shipped from the plants and (1) were not available for sampling or (2) could not be traced.

In July 1971 the Service told GAO that it proposed to revise its 1953 agreement with FDA to define what constituted a product hazardous to health and to require the reporting of such products to FDA. Between that time and May 1972, when the agreement was revised, the Service identified at least 400,000 pounds of products as possibly hazardous to health but the Service, in line with the 1953 agreement, did not inform FDA of them. As of January 31, 1973, the Service and FDA were developing an overall definition of what constituted a product hazardous to health.

The revised agreement did not cover potentially adulterated products other than those considered hazardous to health. According to the Federal Food, Drug, and Cosmetic Act, adulterated products include, in addition to those that are hazardous to health, those that consist, in whole or in part, of any filthy, putrid, or decomposed substance; those that are otherwise unfit for food; and those that have been prepared, packed, or held under unsanitary conditions whereby they may have become contaminated with filth.

FDA told GAO that, in negotiating the changes in the agreement with the Service, it first took the position that the Service should report to FDA any lot of a product that was adulterated and not just those lots which the Service decided were hazardous to health. Because of the grave concern of the Department of Agriculture representatives that grading service would disappear as a result of this, FDA said that it deferred to reporting only products that presented a hazard to health.

The Service told GAO that, if the Service were to report to FDA all the products failing to meet U.S. grade standards, the plants using the grading service would be competitively disadvantaged compared with those plants not using the service. Also the Service said that the plants receiving grading service had to meet sanitary, product, and quality standards and that both the industry and the consumers would lose such benefits if the grading service were discontinued.

Observations on sanitation conditions in plants receiving grading service

Accompanied by Service supervisory employees, GAO visited 40 fruit and vegetable plants. GAO also reviewed the Service's own sanitation reports on these plants, which had been prepared by Service employees before the visits. During the visits Service employees reported one or more major or critical sanitation deficiencies at 25 of the 40 plants. Previous sanitation reports showed that, at 12 of the 40 plants, Service employees had reported some sanitation deficiencies to plant managements many times over extended periods.

Also at 51 of the 132 plants where products did not meet U.S. grade standards, Service employees had refused to grade products because the products had been packed under unsanitary conditions or contained foreign materials—such as oil, paint flakes, and rust—which were, or appeared to be, related directly to plant sanitation.

Conditions revealed by GAO's visits and the Service's sanitation reports and grading records indicated that some plant managements were not taking appropriate and timely actions to correct known sanitation deficiencies and that some Service employees were not effective in having plant managements maintain their plants under sanitary conditions.

From April 1 to July 12, 1971, the Service disapproved requests from seven plants to provide grading service because of sanitation deficiencies and it withdrew its service from two unsanitary plants for short periods during fiscal years 1970 and 1971. Under the terms of its 1953 agreement with FDA, however, the Service was not required to, and did not, notify FDA of these plants.

During GAO's review the Service took actions which should improve plant sanitation conditions. The Service also provided more specific guidelines to its employees on the actions to be taken and on when service was to be withdrawn or suspended or when contracts were to be terminated if plant managements did not take appropriate and timely corrective actions on sanitation deficiencies.

RECOMMENDATIONS OR SUGGESTIONS

GAO recommends to the Secretary of Health, Education, and Welfare that FDA, under the authority of the Federal Food, Drug, and Cosmetic Act, routinely obtain from Agriculture such information as is necessary for FDA to take appropriate action against all processed fruits and vegetables which fail to meet U.S. grade standards for reasons which, under FDA standards, would render the products adulterated. GAO also recommends to the Secretary of Agriculture that the Service cooperate in providing such information on a timely basis.

GAO recommends also to the Secretary of Agriculture that the Service develop procedures for notifying FDA of those plants where, because of sanitation deficiencies, the Service's grading service has been withdrawn or suspended, its contracts have been terminated, or requests for its service have been disapproved.

AGENCY ACTIONS AND UNRESOLVED ISSUES

HEW (see app. IV) stated that it concurred in the recommendation relating to products which failed to meet U.S. grade standards and that it would work with Agriculture to firm up ways by which the recommended information exchange could best be accomplished.

Agriculture (see app. II) stated that its grading service was voluntary and that its reporting to FDA all products failing to meet grade and quality standards would disadvantage those plants voluntarily participating in its quality improvement programs and would apply different standards to those plants that were applied to nonparticipating plants. Agriculture stated, however, that it would continue to cooperate with FDA in providing specific information requested by FDA to assist it in discharging its regulatory responsibilities.

Agriculture (see app. I) stated that steps had been taken to improve sanitation in plants and that others were in process. Agriculture did not agree with GAO's recommendation that it develop procedures for notifying FDA of plants where, because of sanitation deficiencies, grading service had been withdrawn, suspended, or terminated or where requests for service had been disapproved. An Agriculture official stated that the agreement between the Service and FDA did not require that such information be provided to FDA.

If FDA were provided with such information, it could determine whether adulterated products might be involved and could prevent the distribution of such products in interstate commerce. Such action would better protect consumers and would enable FDA to use its scarce resources in the most effective and efficient way. (See p. 28.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report is provided to the Congress for its information and for consideration in its continuing evaluation of consumer protection programs.

EIGHTEEN THOUSAND AMERICANS MURDERED LAST YEAR—MOST WITH HANDGUNS

Mr. STEVENSON. Mr. President, some 18,000 Americans were murdered last year—most with handguns.

Not many were famous. Most were poor. They were litle people, unknown and remembered only by friends and loved ones.

I have received a letter from the widow of one of those 18,000 dead Americans. In the hope that that cold number may acquire more meaning for us all, I ask unanimous consent that the letter be inserted in the RECORD at this point.

As Mrs. Gutierrez said, it is too late now to save her husband but not too late to save others. I wish I could help Mrs. Gutierrez. About all I can say to her is that the Congress may pass legislation to compensate victims like her, the victims of murderers, of the gun lobby, and of our own neglect. I cannot tell her that the Congress will now take pistols from the hands of those who misuse them. We will, I fear, go on wringing our hands, deploring the violence, preaching law and order, and then surrender once again to the gun lobby. That will be litle comfort to Mrs. Gutierrez and to millions like her, fearing at every moment of day and night for the safety of their loved ones in our streets.

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

FEBRUARY 19, 1973.

Senator ADLAI STEVENSON,
Washington, D.C.

SENATOR: I've just read an article on the shooting of Sen. John Stennis, and I am greatly upset. I guess it upsets me more than most people since I am presently awaiting the trial of my husband's murderer.

My husband would have been 29 years old in July, but he was killed in cold blood Dec. 31, 1972. He was taking me and our three young daughters out for the afternoon when a young black man stopped our car and, when my husband got out of the car, shot him in the chest. My husband didn't even know this man, so there was no reason for his death. Now I am left alone to raise my children, ages 5, 4 and 1. I don't know how I will manage, but I will.

I know the murderer will be out of jail in a few years, so I hold no hope of any real justice here on Earth. I do feel sorry for his young child, but at least he is alive and will be able to see his child. My husband was a young healthy man with so many plans, so much to do. Now he will never be able to finish the things he started, never see our daughters grow up.

I know there is nothing you can do to help me, it's much too late, but I do hope you will be able to help others. I pray you will be able to pass legislation prohibiting the use of handguns. So many lives could be saved. It would also help if the police would concentrate their patrols where there has been trouble before. The S. Chicago Street area of Joliet is the crime center of Joliet. My husband was killed there because one of the main exits from Interstate 80 is onto S. Chicago Street. The police won't even answer calls in this area because of the danger to themselves.

I do hope you and the others in Congress can do something about guns and the safety of citizens. We are not safe, even in broad daylight. My husband was killed in front of at least 20 people at 3:00 in the afternoon. Please help us.

Mrs. CAROLYN GUTIERREZ.

NEED FOR DEVELOPMENT OF A SOUND AND SENSIBLE PLAN FOR NATIONAL URBAN GROWTH—SUMMARY OF TASK FORCE RECOMMENDATIONS

Mr. MONDALE. Mr. President, there is no greater long-term need facing our Nation than the development of a sound and sensible plan for national urban growth. This extremely complex and demanding subject has been studied by various groups over decades. Unfortunately, in many of our Nation's metropolitan areas we continue to endure unplanned and unstructured growth, which over the remainder of this century will

pose a major problem to our viability as a nation.

For over a year during 1971 and early 1972, the American Institute of Architects National Policy Task Force studied the problem of urban growth intensively. This study, undertaken by a group of distinguished architects with the help of a variety of expert consultants, explored all espects of our Nation's growth policies.

In brief, the policies recommended by this task force would change the "ground rules" that now shape, and distort the shape, of American communities. These new policies would help create a fresh and useful scale for planning and building in urban areas, and commit the Nation to a major land acquisition policy to guide development in and around key urban centers.

These recommendations are of broad scope and will require public debate and discussion. This discussion should begin now, however, for as a Nation we have no time to lose in the fight to save our urban environments from continued unplanned growth, which in the long run can only damage our national spirit and impede our long-range development.

Mr. President, I commend this report—A Plan for Urban Growth—to every Member of the Senate, and I urge once again that we begin discussing the recommendations contained in the report. If we fail to deal with these problems in a unified and constructive manner, future generations will suffer as a result of our neglect. The alternative, however—orderly, planned, and sound growth—is certainly within our grasp.

Mr. President, I request unanimous consent that the summary of the AIA National Policy Task Force recommendations be printed in the RECORD.

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

SUMMARY OF TASK FORCE RECOMMENDATIONS

A. Scale and Form: The building and rebuilding of American communities should be planned and carried out at neighborhood scale (ca. 500–3,000 residential units along with a full range of essential facilities and services) and in a form appropriately called a "Growth Unit."

B. Priorities: The value most to be respected is free choice. First concern should be given the condition of those trapped in the poverty and deterioration of older neighborhoods, especially of the central cities.

C. Changes in the Ground Rules of Community Development:

Free choice should be expanded:

(1) by ensuring open occupancy throughout the entire housing market affected by governmental subsidies and insurance.

(2) by directing needed housing subsidies to people rather than to structures.

(3) by providing locational options, especially by linking development in central and peripheral areas of the metropolis.

(4) by providing for diverse living styles, through Growth Units of varying densities, housing types, and service patterns; also, less restrictive building and zoning codes.

(5) by expanding the possibilities and scope of citizen participation in the design and governance of neighborhoods.

Financing patterns should be revised:

(1) Less reliance should be placed on the local property tax.

(2) State and federal governments should assume a greater share of:

a. infrastructure costs, and

b. costs of social services, especially health, education, and welfare.

(3) The appreciating value of land benefited by public investment should be recaptured and recycled into community facilities and services.

(4) Categorical aids should be broadened—especially the Highway Trust Fund which should be expanded into a more general fund in support of community development.

Government structures should be reshaped and adapted:

(1) Private-public ventures should be encouraged.

(2) Development corporations should be created by federal, state, and local governments.

(3) Metropolitan planning and development agencies should be encouraged.

(4) State governments should participate more directly in planning and regulating the use of land, especially in areas defined as "critical" (e.g., flood plains, coastal regions, areas of acute housing shortages, and areas in the path of rapid development).

Capacity to build at neighborhood scale—both public and private—should be strengthened:

(1) Financial, legal, and other constraints should be reviewed and eased.

a. A steady flow of mortgage money at low and stable rates should be ensured.

b. "Front money" for Growth Unit development should be made available.

c. Public investments in infrastructure should be properly phased and coordinated.

(2) State governments and metropolitan agencies should take a more assertive role in acquiring and preparing land for development—and in building a network of utility corridors to accommodate and give shape to Growth Units.

(3) Tax and other incentives and disincentives should be revised to encourage high quality urban development.

(4) Environment controls and design standards should be strengthened.

(5) New patterns for the delivery of critical services should be encouraged.

(6) Industrialized building processes should be encouraged.

D. Special Program for Areas Impacted by Rapid Growth and Deterioration:

Priority should be given to the 65 metropolitan areas over 500,000 population.

Within these areas, the public should acquire and prepare one million acres for Growth Unit development.

This development should be explicitly designed to benefit, not detract from, the improvement of the quality of life of those now residing in the older and deteriorating sections.

At average densities of 25 per acre, this special program should accommodate one-third of the expected growth of the U.S. population between 1970–2000.

LET'S TAKE THE TAXPAYER OUT OF LABOR DISPUTES

Mr. CURTIS. Mr. President, we are again faced with the question of whether the American taxpayer will be forced to subsidize strikers.

One of two alternative proposed Department of Health, Education, and Welfare regulations for AFDC–UF programs would require this.

Under the AFDC–UF program a State may provide assistance to families with dependent children where the father is unemployed.

In the past, HEW has allowed the States to decide whether a father who was unemployed, because of his participation in a strike qualified for these benefits.

This practice was challenged in *Francis* v. *Davidson*, 340 F. Supp. 351 (E.D. Md. 1971), affirmed 34 L.Ed. 2d 1681 (1972), where the Court held HEW's regulations required only that the father be employed less than 30 hours per week no matter what the reason. When the case was before the U.S. Supreme Court, the Solicitor General stated that HEW would issue new regulations confirming its past practice. In spite of this commitment, HEW, early in January of this year, published alternative proposed regulations in the Federal Register and has allowed through March 5, 1973, for interested parties to comment.

Alternative A would allow participating States to decide whether to pay AFDC–UF benefits to the families of strikers. Alternative B would establish financial standards as the only prerequisites to the payment of these benefits.

The case for adopting alternative A is stated well in an editorial entitled "Take the Taxpayer Out of Labor Disputes," appearing in the February 1973 edition of Fortune magazine. The editorial notes as follows:

In a strike, of course, both labor and management weigh loss of income against the gains they hope to make by holding out. The relative willingness of each side to endure sacrifices determines to a large extent the duration of the strike and the nature of the settlement. The use of taxpayers' money to ease the strikers' sacrifice introduces a distorting element.

* * * * *

We hope that the first, more stringent version is adopted. Given freedom of action, the states might be encouraged to curb their largess to strikers, or at least to consider the overall effects of their generosity. If union members do not face a real sacrifice of income when they walk off the job, the bargaining process is rigged in advance.

The same Fortune issue includes a review by former Assistant Secretary of the Treasury Murray L. Weidenbaum of Welfare and Strikes by Armand J. Thieblot, Jr., and Ronald M. Cowin. Professor Weidenbaum concludes:

After viewing the evidence presented in *Welfare and Strikes*, few readers will dispute the conclusion that by cushioning strikers against hardship, this dubious use of public funds make for more and longer strikes, and costlier settlements. It decisively tips the balance in collective bargaining. It weakens management's ability to resist union demands, and strengthens labor's ability to force inflationary wage increases far in excess of productivity gains.

I was shocked to learn the extent of the public subsidy for strikers. Thieblot and Cowin estimate that some $304 million in public funds will be used in 1973 for the purpose of subsidizing strikers with food stamps, welfare benefits, and unemployment compensation. Of this amount, $62 million will be spent under the AFDC–UF program.

I hope that after my colleagues read both the editorial and the book review they will express to HEW their support for alternative A. It is high time we "take the taxpayer out of labor disputes."

I ask unanimous consent that a copy of the proposed regulations, the editorial, and the book review be printed in the RECORD.

There being no objection, the proposed regulations, the editorial, and the book review were ordered to be printed in the RECORD, as follows:

ALTERNATIVE A

Section 233.100(a)(1) of Chapter II of Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 233.100 Dependent children of unemployed fathers.

(a) *Requirements for State plans.** * *

(1) Include a definition of an unemployed father which shall apply only to families determined to be needy in accordance with the provisions in § 233.20. Such definition must include any father who:

(i) Is employed less than 10 hours a month; or

(ii) Exceeds that standard for a particular month, if his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he was under the 100-hour standard for the 2 prior months and is expected to be under the standard during the next month; except that, at the option of the State, such definition need not include a father whose unemployment results from participation in a labor dispute or who is unemployed by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law.

* * * * *

ALTERNATIVE B

Section 233.100(a)(1) of Chapter II of Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 233.100 Dependent children of unemployed fathers.

(a) *Requirements for State plans.** * *

(1) Include a definition of an unemployed father which shall apply only to families determined to be needy in accordance with the provisions in § 233.20 and shall include any father who:

(i) Is employed less than 100 hours a month, or

(ii) Exceeds that standard for a particular month, if his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he was under the 100-hours standard for the 2 prior months and is expected to be under the standard during the next month.

This shall be the exclusive definition of an unemployed father.

* * * * *

[FR Doc.73-33 Filed 1-2-73;8:45 am]

TAKE THE TAXPAYER OUT OF LABOR DISPUTES

One way to start redressing the balance in collective bargaining would be to put tighter controls on the practice of allowing workers on strike to claim unemployment compensation, welfare benefits, food stamps, and other forms of public assistance while they are voluntarily off the job. In a strike, of course, both labor and management weigh loss of income against the gains they hope to make by holding out. The relative willingness of each side to endure sacrifices determines to a large extent the duration of the strike and the nature of the settlement. The use of taxpayers' money to ease the strikers' sacrifice introduces a distorting element.

This month's Books & Ideas (page 155) discusses a new book, *Welfare and Strikes*, which is a devastating analysis of the government aid available to striking workers. The authors conclude that using public funds to support strikers decisively tips the balance in collective bargaining to the side of labor. Strikes are prolonged and settlements tend to be inflationary.

We are delighted that the Department of Health, Education, and Welfare is finally getting around to studying this issue. In many states, strikers can claim assistance under an HEW program called Aid to Families with Dependent Children—Unemployed Fathers. Up to now, the department's regulations have not specified whether states may establish conditions of their own for the program. The only restriction spelled out by HEW itself is that for a family to be eligible the father must have worked less than 100 hours in a month.

Out of the twenty-three states that participate in the federal AFDC–UP program, two—Maryland and Oregon—have taken the position that families with the father on strike are not eligible for aid. But the Supreme Court has invalidated the Maryland policy, by upholding a lower-court ruling that HEW's "hours of work" rule is an exclusive one that bars collateral conditions.

Now HEW has put forth two alternative proposals for a new regulation. One would specifically permit states to establish their own conditions for making AFDC–UF payments; they would then be free to deny this aid to strikers. The second proposal would forbid the states to attach any conditions of their own; they could consider only the number of hours worked. HEW has invited comments on both rules and will put one of them into effect in a few months' time.

We hope that the first, more stringent version is adopted. Given freedom of action, the states might be encouraged to curb their largess to strikers, or at least to consider the over-all effects of their generosity. If union members do not face a real sacrifice of income when they walk off the job, the bargaining process is rigged in advance.

HOW THE PUBLIC SUBSIDIZES STRIKES

(By Murray L. Wedenbaum)

Conventional efforts to explain the inflation that began afflicting the U.S. in the later 1960's leave behind a feeling that something is missing. That inflation—far from subdued even now—had some new element in it, an extra virulence that eludes scrutiny based on familiar economic relationships.

At least part of the explanation for this extra virulence—along with a warning that it may plague us even worse in times ahead—leaps from the pages of *Welfare and Strikes* (University of Pennsylvania Press). The authors are Armand J. Thieblot Jr., associate professor of management at the University of Maryland, and Ronald M. Cowin, who worked on the project while he was an M.B.A. candidate at the University of Pennsylvania's Wharton School. Their book, a devastating combination of logic, analysis, and case studies, makes the blood boil.

Welfare and Strikes tells the troubling story of how in recent years various agencies of government—federal, state, and local—have used large amounts of public funds to subsidize strikes. In the last few years such subsidies have supported strikes against General Motors, General Electric, Westinghouse, I.T.T., and many smaller companies.

After viewing the evidence presented in *Welfare and Strikes*, few readers will dispute the conclusion that by cushioning strikers against hardship, this dubious use of public funds makes for more and longer strikes, and costlier settlements. It decisively tips the balance in collective bargaining. It weakens management's ability to resist union demands, and strengthens labor's ability to force inflationary wage increases far in excess of productivity gains.

Three major types of government funds are used to support strikers—welfare payments, unemployment compensation, and food stamps. In at least thirty states, including most of the highly industrialized ones, general assistance (paid out of local funds) is available right away to those who can plead indigence. After a one-month waiting period, strikers in twenty-two states can qualify for public assistance—the federally supported Aid to Families with Dependent Children. The unions often develop a close working relationship with the government agencies disbursing welfare payments. On occasion, union halls are used to process applications and union officials participate in the certification process. Once on welfare, strikers become eligible for medicaid and other "fringe benefits," such as mortgage-payment support, matching funds on home repairs, and day-care or nursing-home services.

The solicitude that some public agencies show toward strikers borders on the astounding. Pennsylvania welfare officials, for example, have made it a policy to provide at least one additional payment to strikers after they return to work and receive a paycheck.

LET THEM EAT STEAK

In New York and Rhode Island, strikers themselves can qualify for unemployment compensation after a period of some weeks. In fourteen other states, workers can qualify for these benefits if they become idle because they refuse to cross a picket line, or if their work stoppage is termed a lockout.

Food stamps are available to practically all strikers who apply for them. The important role of this innocent-sounding form of support should not be overlooked. It is the entering wedge for the other public-aid programs. Food stamps do not always carry the same stigma that is attached to public assistance; their widespread use indicates that they have reduced strikers' initial hesitation about applying for government aid.

Moreover, food stamps are distributed by welfare offices, and while they are applying for stamps, strikers are often counseled about the other benefits available under the welfare system. Sometimes there are classes for union members so they can learn about eligibility requirements for public-aid programs.

The rations available to strikers under food-stamp programs are far from austere. During the G.M. strike in 1970, the Pittsburgh *Press* quoted the food-stamp chairman of a United Auto Workers local as saying: "We have guys eating T-bone steaks now who never ate T-bones before." During a strike against California & Hawaiian Sugar Co., the owner of a grocery store reported that strikers were using food stamps to fill their freezers with enough steaks and roasts to feed their families for months after the strike.

In one form or another, public aid to strikers can add up to impressive amounts. During the strike against General Electric in 1969–70, one union leader estimated that community benefits (including aid from United Fund charities) averaged $50 per striker per week. Total supporting outlays by voluntary and public agencies during the seventeen-week strike came to well above $5 million a week.

Welfare and Strikes contains considerable testimony, notably from union officials, indicating that public generosity does affect the actual behavior of strikers. In Michigan, where U.A.W. members received abundant aid from welfare payments and food stamps during the G.M. strike in 1970, an official of the union said members exerted less pressure for settlement during that seventy-one-day strike than during earlier stoppages lasting only two weeks. Another U.A.W. official explained that "when workers are receiving welfare assistance there is not as much economic hardship on members. Therefore, there is not as much pressure on our bargaining unit to settle."

During a 1970 strike against Johns-Manville, a rank-and-file union member receiving welfare aid, food stamps, and medicaid was quoted as saying: "We're not hurrying any. I get $40 a week strike benefits and a welfare allotment that handles the rest of our day-by-day expenses . . . I'm in no more of a financial bind now than when I'm working." This striker's total benefits, in-

deed, amounted to $380 a month, about as much as his take-home pay when he was working.

Unless there are public-policy decisions to tighten up, we can expect increasing use of public funds to subsidize strikes as time goes by. For one thing, the stigma of being on welfare has been reduced, partly because of the personal experiences of many workers. For another, applying for welfare benefits has been transformed from an individual act to an organized union activity, under experienced union guidance.

"AN UNWARRANTED IMPOSITION"

The public will have to pay in at least three ways. The aid to strikers will have to be paid for out of tax revenues. With strikers protected from economic pain, there will be increased disruption from strikes. And with the balance between labor and management upset, there will be accelerated inflation as strikers win lavish settlements. In time, Thieblot and Cowin venture, the public will find the injustice of all this intolerable. "Such an inequitable situation, if continued, or worsened as we predict, will undoubtedly result in demands for drastic changes in our industrial relations system."

In the short run, though, the prospects for a change in policy seem far from bright. In 1969, President Nixon urged Congress to eliminate the payment of unemployment compensation to strikers. "The unemployment tax we require employers to pay," he said, "was never intended to supplement strike funds to be used against them." The recommendation never got out of committee.

Sooner or later, it seems safe to predict, society will have to stop subsidizing strikers. It is hard to argue against the verdict of Thieblot and Cowin that "paying welfare benefits to strikers is an unwarranted imposition on the public treasury and the private good." Still, it must be acknowledged that many other segments of this society also receive subsidies of one kind or another. Many business organizations are among the beneficiaries. It is too obviously self-serving to attack the privileges received by other groups, but to defend your own as necessary investments in progress, growth, or wisdom. The best way for society to halt the subsidizing of strikes is to do so as part of a broad and effective assault on the crazy quilt of government subsidies—especially those that benefit people who are much better off than most members of labor unions.

WHAT INDIANS WANT: A JOB PROGRAM

Mr. JACKSON. Mr. President, recent events both in Washington and in other parts of the country have again focused attention on the problems of our Indian population and on Federal relations with Indian tribes. Reports have emanated from the administration that the Bureau of Indian Affairs is about to undergo another of its periodic reorganizations. Whatever the nature of the reshuffling which might go on, the question remains as to what the basic policy should be which the Federal Government follows in its dealings with our Indian population.

The Washington Post recently printed an article by Richard Schifter, who serves as counsel to the Association on American Indian Affairs and a number of Indian tribes, which offers one possible answer to this question. Mr. Schifter suggests that providing work opportunities and jobs should be the main theme of any Federal program for reservation Indians. As the problem of Indian unemployment, its ramifications, and its possible solutions deserve our special attention, I ask unanimous consent to have Mr. Schifter's article printed in the RECORD.

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

WHAT INDIANS WANT: A JOB PROGRAM

Critics of the "Trail of Broken Treaties Caravan" claim that the men and women who occupied and destroyed the premises of the Bureau of Indian Affairs last November were "city Indians" totally alienated from reservation communities. Other observers have argued that these men and women were authentic spokesmen for Indian grievances.

In a sense both of these observations are correct. Many of the members of the Trail of Broken Treaties Caravan came from the cities. Few, if any, were duly authorized spokesmen of their tribes. Tribal leaders by and large disapproved of the destruction the Caravan wrought in the Indian Bureau. But there is no doubt that viewing the pictures of Bureau files and records in shambles gave some feeling of satisfaction to a good many Reservation residents who would not themselves have been prepared to occupy and destroy a Federal installation.

Why do Indian people feel so deeply frustrated? Why are they prepared to vent these frustrations on the Federal agency whose assigned task is to assist them?

During the last six years we have seen a variety of Federal legislative program suggestions in the field of Indian policy. Both Secretary of the Interior Udall in 1967, and President Nixon, in 1970, submitted packages of Indian bills to the Congress. (The two packages, incidentally, did not differ materially from each other.) Congress has failed to act on them and that is regrettable, as a number of these legislative recommendations could be of value. But anyone who believes that enactment of any or all of these proposals would significantly alter the spirit of despair and frustration in the Indian country is sadly mistaken.

Washington is a government town and its officialdom thinks in terms of bureaucratic abstractions. The Administration's Indian program focuses on such abstractions: Should Tribal governments or Federal officials operate Reservation schools? Should the Departments of Justice and the Interior or an independent Indian Trust Counsel Authority have responsibility for litigating Indian water rights? Should all Indian tribes be allowed to enter into 99-year leases of their land? Whatever the answers which Congress ultimately supplies to these questions, the average Reservation Indian's life, his sense of frustration, will not be significantly affected.

For the single most important problem of the Indian country is unemployment, all-pervading, debilitating, chronic large-scale unemployment. At the depth of the Great Depression, when our country's condition was felt to be truly desperate, the rate of male unemployment reached 25%. In the Indian country, by comparison, we experience today an average unemployment rate of approximately 40%. It has been at this or at higher levels for decades.

If anyone ever needed proof that the need to be productive and creative is not one merely instilled by our prevailing WASP culture but is a basic human need, one can find it on our Indian reservations. There we herded Indian people in the Nineteenth Century, to get them out of the way of the settlers of the West. No serious thought was given to providing a viable economic base for these hunters and fishermen who had overnight been deprived of their hunting and fishing grounds. Adjusting to a new culture, a new environment, to new modes of living and earning a livelihood, they have desperately sought for an alternative to the dole. Only rarely have they found it.

When I first visited Indian reservations in 1951, I heard uniformly favorable comments about a Federal program which by then had been dead for ten years, the Civilian Conservation Corps. It had brought to the Reservations what its residents wanted most: jobs. Throughout the last twelve years, during which Indians have been inundated with a variety of Federal programs, what they have looked for in each instance, in examining each program proposal, has been the same: jobs. The Works Acceleration Program of 1962, the employment programs of the OEO, and the Emergency Employment Act of 1971 were all greeted by an enthusiastic Indian response. (In the early years of OEO one of my Indian friends asked me why that agency did not concentrate on jobs for family heads instead of "fooling around" with a variety of other programs. I explained what I had been told by a high Administration official: "They don't just want to organize another WPA." To which my Indian friend responded: "Why not?" Why not, indeed.) But these programs have been limited in scope and often short in duration. If we really wanted to deal with the root causes of the problem which was so forcefully brought to our attention during the early November days of 1972, we need to do no more than enact of comprehensive Indian work program.

If Indians want to find work, it might be asked, why don't they leave the reservations and look for jobs in the cities? Or, why can't private industry provide jobs on the reservations? A brief answer to these questions is that Indian relocation has been tried (in the 1950's) and has certainly not solved the problems of reservation communities and that past experience shows that a private development effort will not make a significant dent in as massive an unemployment problem as that which exists on our Indian reservations.

While massive in the setting of the reservations, the problem of Indian unemployment is relatively insignificant when compared to the operation of our trillion dollar economy. To effect a significant change in the life of reservation communities, a work program which would create about 30,000 jobs is needed. The gross expense of such a program would not exceed $150,000,000. Savings in welfare assistance, aid to dependent children, and a variety of other social programs would reduce the net cost to the taxpayer significantly below the amount appropriated to fund the Indian works program. It is a price which we could easily pay if we truly wanted to attain the objective of lifting the cloud of despair which now hangs over every Indian reservation in our land.

How would these 30,000 Indians be employed? A good many of them could engage in conservation work, others in the development of recreation facilities, others still as aides in schools and hospitals, thus improving the quality of these public services. Will they be indefinitely on the Federal payroll? I don't think so. I believe that once an employment economy has been established on Indian reservations, the private sector will begin to grow and ultimately become dominant. At any rate, it's worth a try. It surely is a reasonable alternative to another generation of paper-shuffling and sloganeering in

the Government and utter misery in the Indian country an alternative to other pointless and fruitless acts of destruction.

THE NATIONAL POWER GRID ACT

Mr. McGOVERN. Mr. President, I am pleased to join with my colleagues in the introduction of one of the most important pieces of legislation to affect the electric consumers of this Nation, the National Power Grid Act, S. 1025.

American consumers have become so heavily dependent on adequate, reliable electrical energy that the task is too important to be left to the utilities alone.

Their responsibilities to management, shareholders, and to the consumers of their service areas may not often coincide with the national interest.

The National Power Grid Act would provide the mechanism necessary to resolve these sometimes conflicting responsibilities of individual electric utilities, in their interest and in the national interest.

In addition, it would provide us with the mechanism to develop an optimum power transmission system with the newest technologies in transmission—something that may be beyond the capital abilities of any single utility or consortium of utilities.

Such a national transmission system would allow the movement of electric power to regions which need it most, from regions which are better able to produce it.

A national grid would take advantage of economies of peak and time zone differential. When the daily peak is subsiding in the East, it is building in the Midwest, and just beginning in the West.

It would take advantage of economies in seasonal peak differential. When there are heavy demands for air conditioning in one region during a hot period, it may be cooler and less demanding on electric capacity in another.

The National Power Grid Act would not make available another single kilowatt of capacity that would not otherwise be built. But it would maximize the capacity that is on the line, by broadening the area in which the production from any single plant could be marketed.

A national power grid would have reliability advantages. In the event of an unanticipated equipment failure at a major generator in a given region, power could be imported from adjoining regions—or, by displacement, from across the continent.

Such a grid would have environmental advantages. In the event of an anticipated air inversion in a major urban center, powerplants in that city could be shut down, and power imported from other regions.

My colleagues have outlined, in an articulate fashion, the historical support and the need for this legislation. I urge the Congress to come to grips with this problem, and give early and favorable consideration to the solution which we propose, and to use this bill as a vehicle for reaching that solution.

WHY THE WATERGATE AFFAIR MUST BE INVESTIGATED BY THE SENATE

Mr. MANSFIELD. Mr. President, in his "Editor's Notebook" for February 11, 1973, which appeared in the Charlotte, N.C., Observer and the other Knight Newspapers, John S. Knight, who is one of America's ablest and most distinguished editors, set forth in cogent and convincing terms the reasons why it is imperative for the Senate to investigate the Watergate affair and its ramifications.

I ask unanimous consent that Mr. Knight's article be printed at this point in the body of the RECORD.

There being no objection, the article was ordered printed as follows:

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

WATERGATE AFFAIR MUST ROLL ALONG—NO ONE SHOULD CONCEAL THE TRUTH

(By John S. Knight)

During last fall's presidential campaign when the Watergate case was dominating the headlines, I sermonized at some length about the abandonment of public morality, and the administration's inability or lack of compulsion to muster even the slightest trace of indignation over developments which have appalled even the most faithful members of the President's party.

I took a lot of flak over that, with literally hundreds of indignant Nixon supporters protesting that the investigation of the bugging and burglarizing of the Democratic national offices was "just politics, both parties do it, and it happens in every campaign."

Other readers rationalized that the Watergate case would be dropped once the election was over. They failed to reckon with the fact that the defendants were facing criminal charges which could not be quashed even if the Republicans won the election.

LOOK AT THE RECORD

What do these complaining citizens now have to say as they examine the record?

1. Of the seven Watergate defendants, five have pleaded guilty and two senior officials of President Nixon's campaign organization have been tried and found guilty on all counts.

2. Chief Judge John J. Sirica of the United States District Court has produced sworn testimony that former Attorney General John J. Mitchell and former Secretary of Commerce Maurice H. Stans, chief money raiser for the Nixon campaign, personally approved the disbursement—much of it in $100 bills—of $199,000 to one of the defendants convicted of espionage.

3. Dwight L. Chapin, former appointments secretary for President Nixon, is reported by the New York Times to have directed Herbert W. Kalmbach, the President's personal attorney, to pay one Donald L. Segretti for alleged spying activities against Democrats in 1971 and 1972.

The Times says that Kalmbach, a leading GOP fund raiser, confirmed to FBI agents that he did make these cash payments.

4. Although the Justice Department argued at one point that Hugh W. Sloan Jr., a high ranking member of the Nixon organization, "had no possible remote connection, direct or indirect, with the Watergate incident," Judge Sirica's questioning brought admission from Sloan that he had transmitted the previously mentioned $199,000 to defendant Gordon Liddy, head of the break-in and bugging operation at the Democratic National Headquarters on June 17.

And so I repeat, how can any citizen who believes in public morality justify such shenanigans as "just politics", or excuse these transgressions of law by rationalizing that "the Democrats do it, too?"

APPOINTED BY IKE

Judge Sirica, tenacious questioner, interrogated the defendants who had pleaded guilty as to whether anyone had induced them with money or promises of "executive clemency or commutation of sentence."

In unison, they replied "No". Asked the judge, "Are you sure of that?" A few minutes earlier, Sirica had asked defendant Bernard Barker how he got the money used in the operation.

"Your honor, I got that money in the mail in a blank envelope."

Said the judge, "I'm sorry, I don't believe you."

Informatively, Judge Sirica is a life-long Republican appointed by President Eisenhower in 1957.

The eagerness of five defendants to plead guilty, and the seeming indifference of J. Gordon Liddy and James W. McCord to convictions which could mean jail terms of 35 to 45 years, suggest that they were protecting persons unknown, and at a higher level.

And why did the Justice Department decline to call witnesses suggested by Judge Sirica, but instead take depositions in private, thus preventing cross-examination?

As The Charlotte Observer asks: "Did Attorney Gen. Richard Kleindienst ever really bear down on this case? Clearly not." The Observer notes that a former Nixon administration official, Clark R. Mollenhoff, says Kleindienst could have used federal immunity laws in the way they were used to encourage members of organized crime to identify higher-ups in criminal activity.

"It would appear," wrote Mollenhoff in Human Events, "that getting to 'Mr. Big' in the Watergate affair is being blocked by the very type of 'conspiracy' of silence that has paved the way for organized crime to shield its bosses from the law."

Ironically, Mr. Mollenhoff was formerly an investigative reporter for the Cowles newspapers, and was brought into the Nixon Administration to shed light on possible misdeeds.

One further note: Time magazine says that "government prosecutors headed by Assistant U.S. Attorney Earl J. Silbert pursued the Watergate case with tunnel vision. They concentrated almost exclusively on the narrow details of the entering and bugging, while avoiding any evidence suggesting a larger effort to disrupt. The trial revealed almost nothing that had not already been disclosed to the press long before."

FURTHER INVESTIGATION

Fortunately, the Watergate affair did not end with the trial. A further investigation is to be conducted by Sen. Sam Ervin of North Carolina, a man of impeccable credentials and an authority on constitutional law.

Sen. Ervin will seek to establish:

1. Who planned and paid for the operation for which seven men have either pleaded or been found guilty.

2. Whether the five defendants who pleaded guilty were "induced by bribery, coercion, threats, or any other means whatsoever" not to stand trial or to conceal information about the higher-ups.

3. Who listened to bugged telephone calls and office conversations, and to whom these conversations were reported.

4. Were Republican campaign funds used to "disrupt, hinder, impede, or sabotage in any way" the campaigns of various presidential candidates.

Last November, I stated that "as a citizen, I resent being asked to accept on faith the shabby tricks of gutter politics which are being masked in the deep and foreboding silence of those who govern my country."

I still feel that way, the opinions of the not so silent majority notwithstanding.

Let the Watergate affair, like the river, just keep rolling along. May its course never be deflected, nor dammed by those who would obstruct justice and conceal the truth.

DEATH OF GOV. WINTHROP ROCKEFELLER OF ARKANSAS

Mr. BAKER. Mr. President, it was with great regret that I learned last week of the death of former Gov. Winthrop Rockefeller of Arkansas.

I felt a special closeness to "Win" Rockefeller, both as a geographic next door neighbor and as a personal and political friend.

In 1966 we shared the experience of becoming the first Republican candidates in many decades to win statewide elective office in our respective States. In the following years we enjoyed many pleasant experiences and worked together on projects to benefit the mid-South.

Win Rockefeller was a member of one of this Nation's wealthiest families, but he will be remembered for his own achievements.

Rising on his own merit from the rank of Army private to lieutenant colonel, Winthrop Rockefeller became a highly decorated commander in World War II. In the postwar years he became actively involved in a wide number of philanthropic ventures throughout the Nation and worked to further the economic progress of his adopted State of Arkansas.

As chairman of the Arkansas Industrial Development Council and as a two-term Governor of Arkansas, Winthrop Rockefeller proved himself to be a dynamic and progressive public servant.

Governor Rockefeller dedicated himself to the pursuit of an era of excellence. He worked to improve job opportunities, reform the prison system, establish a code of ethics for public officials, crackdown on crime and illegal gambling, and promote community development.

For these achievements as well as his philanthropic work, Winthrop Rockefeller's memory will be honored by the people of Arkansas and his many friends throughout the Nation.

RULES OF THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. MOSS. Mr. President, pursuant to the provisions of section 133B of the Legislative Reorganization Act of 1946, as amended by section 130(a) of the Legislative Reorganization Act of 1970, the Committee on Aeronautical and Space Sciences offers for publication the rules under which it is now operating. The committee further wishes to advise the Senate that these rules are now under study by the staff and any amendments of these rules upon being duly adopted by the committee will be published by the committee within 30 days after the adoption of any such amendment.

I ask unanimous consent that the rules of the committee be printed in the RECORD.

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

AERONAUTICAL AND SPACE SCIENCES COMMITTEE RULES

Rules governing the Procedure of the Senate Committee on Aeronautical and Space Sciences, adopted pursuant to Sec. 133(b) of the Legislative Reorganization Act of 1946, as amended by Section 130(a) of the Legislative Reorganization Act of 1970.

1. GENERAL

All applicable requirements of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the committee and its subcommittees.

2. MEETINGS

The meetings of the committee shall be on Tuesday of each week at 10:30 a.m. or upon call of the chairman.

3. NOMINATIONS

Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least seven (7) days before presentation in a meeting for action. Upon reference of nominations to the committee, copies of the nomination references shall be furnished each member of the committee.

4. HEARINGS

(a) No hearing on an investigation shall be initiated unless the committee or subcommittee has specifically authorized such hearings.

(b) No hearing of the committee or any subcommittee thereof shall be scheduled outside of the District of Columbia except by the majority vote of the committee or subcommittee.

(c) No confidential testimony taken or confidential material presented in an executive hearing of the committee or subcommittee thereof 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.

(d) Any witness summoned to a public or executive hearing 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.

5. QUORUM

Three Senators, one of whom shall be a member of the minority party, shall constitute a quorum of the Senate Committee on Aeronautical and Space Sciences for the purpose of taking sworn testimony, unless otherwise ordered by the full committee. Each duly appointed subcommittee of the Committee on Aeronautical and Space Sciences is instructed (1) to fix, in appropriate cases, the number of its entire membership who shall constitute a quorum of such subcommittee for the purpose of taking sworn testimony, and (2) to determine the circumstances under which subpenas may be issued and the member or members over whose signatures subpenas shall be issued.

MIGRANT HEALTH ACT MUST BE EXTENDED

Mr. HART. Mr. President, I have today asked that my name be added as a cosponsor of S. 740, a bill that would extend the Migrant Health Act for 4 years and provide much needed funds for health care and hospitalization for migrant and seasonal farmworkers.

The migrant health program, first authorized in 1962, and subsequently extended three times, will expire at the end of this June if we do not breathe new life into the program. It is unfortunate, but all too true, that the program must be extended, for today, as 10 years ago, neither existing private health services nor Government programs provide adequate health care services to the Nation's farmworkers.

Migrant and seasonal farmworker health needs are critical, and those needs must be met. Health care for farmworkers today is inadequate because of the poverty, lack of education, language, and cultural barriers, constant mobility, lack of community health care and manpower resources, health needs, although funds have been grossly inadequate.

and transportation problems. For the first time, under the migrant health program, we began to meet farmworker

Unmet farmworker health needs in Michigan were graphically displayed in a May 1972 report released by the public health service. First, it is estimated that there are almost 100,000 migrant farmworkers and family members who come to Michigan each year to work in the fields and harvest our State's fresh fruits and vegetables. Of these, over 50 percent are apparently totally out of range of existing programs, and thus totally excluded from services. The remainder are within range of programs, but less than 20 percent are serviced by programs in Michigan. The tricounty migrant health project in St. Joseph was able to serve only 7,000 of the 19,000 farm labor population; the east-central Michigan project located in Saginaw was able to serve only 2,000 of an estimated 8,000 migrants; and the northwest Michigan health services program in Traverse City served only 1,500 of a total migrant population of 14,000. The need for substantially increasing the funding for this program is established in Michigan, and the unmet needs reflect only a part of the Nation's responsibility to protect this segment of the population whose problems are national in scope and interstate in nature.

Mr. President, the bill, S. 740, is a modest proposal. The present funding level of about $25,000,000 would be raised over each of the next 4 years to $60, $105, $120 and $135 million, respectively, and amounts of $25, $35, $40 and $45 million annually would be made available solely to meet hospitalization expenses. Unfortunately, the administration did not see fit to recommend extension of the program last year, but I am hopeful that they will have a constructive proposal for us this year.

The record has been made for the need to extend this program, and I would like to share with my colleagues what I consider to be one of the strongest statements in support of this legislation from a person with impeccable credentials, Dr. Ray Wheeler of North Carolina. The statement was delivered almost 3 years ago before the Migratory Labor Subcommittee. In a clear, concise manner

Dr. Wheeler documented the need for this legislation.

I hope that the Congress moves quickly on this important bill, and that it is signed into law. We owe no less to farmworkers who harvest our bounty of fresh fruits and vegetables.

Mr. President, I ask unanimous consent to include in the CONGRESSIONAL RECORD at the close of my remarks, the statement of Dr. Wheeler.

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

PREPARED STATEMENT OF RAYMOND M. WHEELER, M.D., CHARLOTTE, N.C.

My name is Raymond M. Wheeler. I am a physician engaged in the private practice of Internal Medicine in Charlotte, N.C. I am a member of the American Medical Association, a Fellow of the American College of Physicians, and am certified as a specialist in Internal Medicine by the American Board of Internal Medicine. I am also President of the Southern Regional Council, an organization of black and white Southerners, who for twenty-five years have sought and worked for equal opportunity for all citizens of our region.

During the past three years I have studied the health and living conditions of the poor in North Carolina, Mississippi, Alabama, Florida, Southwest Texas, Appalachia, and in the ghettoes of Northern cities. I have examined children, talked to their parents, and visited their homes and schools. I have served as a member of the Citizens' Board of Inquiry into Hunger in the United States which published the report entitled *Hunger, U.S.A.* I have testified before committees of both the House and Senate of the United States concerning the existence of hunger and malnutrition throughout this country.

In January and again in April of this year I traveled with other medical colleagues in Southern Florida observing the health and living conditions of migrant farm workers. In March of this year, my colleagues here today and I visited Hidalgo county in Southwest Texas. We were part of a medical team of about twenty-five physicians, medical students and technicians. There we spent five days examining farmworkers and their families, talking with them and other members of the community, and visiting homes and labor camps in which the people live.

Beginning with our visits to Mississippi and Alabama in 1967 and including our trips to Florida and Southwest Texas this year, the efforts of all the physicians involved in this work have been sponsored and encouraged by the Field Foundation. The purpose of our studies and our reports have always been the same. We have sought to observe and study the life situations of children of the poor, in order to bring their condition to national attention. Their condition is one of sickness and poverty, isolation and neglect, indifference and exploitation, resulting in tens of thousands of children who exist in our country today without hope, denied their basic rights as human beings, and condemned to lives of pain, frustrations, and despair. In our minds there can be no question about this fact. It seems equally certain that this tragic situation is directly related to another. In our affluent, money-oriented society, human needs of children have been subordinated to political and economic interests.

It would not be consistent with our beliefs or our purpose to portray those interest as intrinsically evil. Rather, we see them as basically uninformed, insensitive, and uncaring about the vast and irreparable harm that is being done not only to children, but to the very fabric of a society in which these children must live and take their places as adult citizens.

Wherever we went, in the South, the Southwest, Florida, or Appalachia the impact was the same—varying only in degree or in gruesome detail.

We saw countless families with large numbers of children, isolated from the mainstream of American culture and opportunity, possessing none of the protections of life and job and health which other Americans take for granted as rights of citizenship.

If the farmworker is injured in the field or if he becomes ill from exposure to pesticides (we heard of and saw many instances of both situations), he does not receive Workman's Compensation. If he is sick or cannot find work (and there are many days when work is not available) he does not receive unemployment insurance. There is no realistic minimum wage to guarantee him adequate pay for his work. If Social Security payments are deducted from his wages, few records are kept by the crew boss on which he can later base a claim. He has no health or hospital insurance to provide him with minimal medical care and he does not earn enough to purchase it. The farmer is not even prohibited from working young children in the fields if the parents, desperate for enough money to buy food and shelter, choose to take their children out of school or bring along their pre-school age children to pick the vegetables.

We saw housing and living conditions horrible and dehumanizing to the point of our disbelief. In Florida and in Texas, we visited housing projects, built with public funds, which defy description. We saw living quarters constructed as long cinder-block or wooden sheds, divided into single rooms by walls which do not reach to the ceilings. Without heat, adequate light or ventilation, and containing no plumbing or refrigeration, each room (no larger than 8x14 feet) is the living space of an entire family appropriately suggesting slave quarters of earlier days. I doubt if the owners of fine racing horses or dogs along the East Florida coast would think of housing their animal property in such miserable circumstances.

We saw many different kinds of housing and perhaps some of the worst from the standpoint of structural soundness (owned by those who lived there) did not create in me the feeling of outrage that some of the "better" housing did. For example in Dade County we looked at quarters operated by the Homestead Housing Authority with public funds. There someone had sat down at a drawing board and deliberately and callously designed a living unit which consisted of a single room with concrete block walls, divided partially by a block-partition which jutted out in the center of the room. There was one door and one small window high up under the ceiling. The room was dark and damp at mid-day. There was nothing in that unit to make it habitable. There was not one gesture toward providing either comfort or basic human needs—no source of water, no toilet, no refrigeration, no heat, and the lighting was so dim that no child could have possibly been able to read or study. This was the creation of a public authority, a place in which it was willing for other human beings to live.

Can you imagine the effects on a child of living in such a situation—the physical discomfort of the heat, the cold, the dampness? The absence of fresh air and the crowding greatly increases the likelihood of transmission of contagious disease. This is why so many have tuberculosis as well as chronic respiratory infections. How is it possible for a child to study and perform in school when it is impossible for him to read by the light available to him? How can he possibly be emotionally well-adjusted when he has no privacy—when he lives in a cage? How can he possibly stay awake in school the following day when he has attempted to sleep in a bed with three or four of his brothers and sisters?

How can this be, in a society such as ours, with the values we are presumed to cherish?

In all of the areas we visited, the nearly total lack of even minimally adequate medical care and health services was an early and easily documented observation. Again, that which most Americans now agree to be a right of citizenship, was unavailable to most of the people whom we saw. The standard procedure of requiring cash for services and a cash deposit before hospital admission, places an impossible burden upon those least able to afford the high cost of being sick.

Documentation of discrimination in medical services and denial of medical care will be described during the course of the hearings.

We saw hundreds of people whose only hope of obtaining medical care was to become an emergency which could not be turned away. We heard countless stories of driving 50 or 100 miles to a city general hospital after refusal of care at a local hospital. Mexican-American citizens of the U.S. told us of crossing the border into Mexico for dental and medical treatment which was less expensive and for care which was kinder, more humane than they could obtain in their own communities. We heard of diagnoses and treatment by nurses, endless waiting for simple procedures such as immunization of small children, and degrading treatment by medical personnel.

A few statistics substantiate our observations. The migrant has a life expectancy twenty years less than the average American. His infant and maternal mortality is 125% higher than the national average. The death rate from influenza and pneumonia is 200% higher than the national rate and from tuberculosis, 250% higher than the national rate. The accident rate among migrant farmworkers is 300% of the national rate.

We know from these statistics alone that the migrant and seasonal farmworkers live shorter lives, have more illnesses and accidents, lose more babies, and suffer more than the rest of us. Everything that we saw and heard in Florida and Southwest Texas bore out this knowledge.

From the moment we set foot in Hidalgo County until we departed, our medical team was engulfed by a seemingly endless procession of distraught and anxious parents, bringing their elderly relatives and their families of six, eight, or ten children—seeking medical treatment which they could not obtain in their own communities. Most of these people live constantly at the brink of medical disaster, hoping that the symptoms they have or the pain they feel will prove transient or can somehow be survived, for they know that no help is available to them. Only two groups have any hope for relief: Those who are somewhat better off financially and those who are most critically ill. Some of the people we saw were not seriously ill, or perhaps not ill at all, but none of them knew, and most had never had the opportunity to find out, if they were healthy or whether tomorrow might bring disaster. Our group was not equipped to offer very much in the way of definitive treatment for the vast amount of illness we saw. Perhaps the most constructive and most helpful acts that we performed involved the opportunities to assure some, who had never seen a physician before, that they were, indeed, well and could continue their struggle to survive without the nagging fear of physical disability or death.

For the rest, the majority of the hundreds of people we examined, it was a different, frustrating, and heartbreaking story. We saw people with most of the dreadful disorders that weaken, disable, and torture, particularly, the poor.

High blood pressure, diabetes, urinary tract infections, anemia, tuberculosis, gallbladder and intestinal disorders, eye and skin diseases were frequent finding among the adults.

Almost without exception, intestinal parasites were found in the stool specimens examined. Most of the children had chronic skin infections. Chronically infected draining ears with resulting partial deafness occurred in an amazing number of the smaller children. We saw rickets, a disorder thought to be nearly abolished in this country, and every form of vitamin deficiency known to us that could be identified by clinical examination was reported.

I doubt that any group of physicians in the past thirty years has seen, in this country, as many malnourished children assembled in one place as we saw in Hidalgo County.

There is one place I remember particularly—a labor camp in Weslaco, a small town east of McAllen.

As we walked between the rows of dwelling units, many small children played around us, running about barefooted through mud and pools of stagnant, refuse-filled water—the perfect culture medium for intestinal parasites, polio, and bacteria causing infectious diarrhea which kills so many children.

We stopped and examined children at random and almost every child had some preventable physical defect. We saw tiny youngsters drinking rice water out of bottles because their mothers had no milk to give them. Chronic skin infections, both fungae and bacterial, were practically a 'normal' finding. Rickets is supposed to be a rather rare disease these days but we saw one child after another with deformed ribs and legs, thickened wrists which are the classical landmarks of the disease. One youngster, standing apathetically near a group of playing children, had all the stigmata of advanced protein deficiency—sparce, thin, reddish, hair, thin drawn face, protuberant abdomen, and thin, wasted extremities.

We stepped into one single-room dwelling unit where lived parents and six children. Amazingly, it was spotlessly clean in spite of the fact that the nearest source of water was a block away.

On the bed lay a 3-month-old infant, who weighed less than the average newborn. It was emaciated, restless, wailing, and occasionally pulling at a bottle which we soon discovered contained sour milk. There was no refrigerator in which to keep formula. The child had been ill for weeks, according to its mother but at its last visit to the clinic, a day or two earlier, no medication had been prescribed. A very quick examination disclosed pus pouring from its right ear. We made arrangements for the child to have penicillin and individually packaged feedings of formula which the mother could not afford. I suspect we were too late and I doubt if the child survived.

What I have just attempted to describe in Weslaco is documented on film taken by Martin Carr of NBC. When the decision was made to confine the documentary on the migrant to Florida, that film was not used and remains in the possession of NBC. It is my hope that it will be preserved and made available to the nation, for it portrays conditions which cannot be adequately described by mere words.

Because of the tremendous numbers of people who sought our help in a limited time, we interviewed and examined entire families as a unit. In one tiny rural settlement, with a medical student assisting me, I spent an entire day examining one family after another. It was a shattering experience.

Their dietary histories were all the same—beans, rice, tortillas, and little else. The younger children, especially, were undersized, thin, anemic, and apathetic. The muscles of their arms were the size of lead pencils—a sign of gross protein malnutrition. Many had evidence of multiple vitamin deficiencies and almost without exception, their skins were rough, dry, inelastic with the characteristic appearance of Vitamin A deficiency. I remember vividly the shock I received when one young boy was brought in who was well nourished and I touched the skin—warm, soft, resilient—unlike any I had seen all day and I called to the student with me to come and put his hand on that child in order that he might refresh his memory of what a healthy skin feels like.

The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally, and emotionally. They do not have the capacity to engage in the sustained physical or mental effort which is necessary to succeed in school, learn a trade, or assume the full responsibilities of citizenship in a complex society such as ours.

In 1967, my medical colleagues and I traveled through the Mississippi Delta and rural Alabama. There, we saw hunger and poverty and human misery to a degree that we had not dreamed possible in affluent America. In 1970, two and one-half years later, we have found in Florida and Texas, rich and fertile states, other forgotten Americans, living and working in near slavery, their children living and dying in conditions as dreadful as any we had previously encountered.

It is not likely that we saw more malnutrition or more human misery than we had seen in the Delta. Perhaps, in the time that we were there, we did not experience as much overt hostility expressed by the white community as we had sensed in Mississippi and Alabama.

In the Delta, mechanization of the huge farm industries had rendered thousands of people useless to the economy, and they were left to die or to survive as best they could. In some instances, it seemed clear that there was an unspoken conspiracy to solve the problem by making life so intolerable that people were forced to flee the land and the state in which they could no longer earn a living. No longer needed and unable to secure help from the white community, the black Mississippian at least had the freedom to leave, if he were able, and to seek a better life elsewhere.

In Florida and Texas, the farm worker remains a valuable asset to the owners and operators of the huge farms which produce food and fruit for the nation. Without them, corn and tomatoes would rot in the fields and oranges and grapefruit would shrivel on the trees. There is no way that these farms can be operated without the migrant work force which moves about the area, harvesting the beans and squash this week, moving on to gather the avocadoes another week, in another county. Mechanization has not yet devised a way to replace them.

What is different in Florida and Texas from the rest of the rural South is the deliberate, cruelly contrived, and highly effective system which has been devised to extract the maximum work and productivity from other human beings for the cheapest possible price. Every effort is directed toward isolating the farmworker from the rest of society, maintaining him at the lowest level of subsistence which he will tolerate—then making certain that he has no means of escape from a system that holds him in virtual peonage. And to that end, the grower has the full cooperation of the Federal government, the state, and the local community.

At this point in my report, in order that what I say next will not be misinterpreted, I would like to express my high regard and respect for the members of the Subcommittee on Migratory Labor and my admiration for the hard work, the commitment, and the efforts of all of you in your attempt to better the life of the migrant. No one has done more.

At the same time, I have questions which I feel must be raised or I will not have carried out my responsibility to you or to the people about whom we are both concerned. These questions relate to the reasons for this hearing and the many hearings which have preceded it on the same and related subjects. You are perhaps even more aware than I of the volumes of information and the days of testimony which are already available to you and to the Congress, documenting the fact of children in our midst who are stunted physically, dulled mentally, and warped emotionally—children who are deprived of all opportunity to become productive citizens—children who will grow up to become wards of society or worse—perhaps hostile, alienated, and destructive.

I have here a copy of a report of the President's Commission on Migratory Labor, written and submitted to President Truman in 1951. Even a cursory examination of its pages will reveal that the plight of the migrant has not changed significantly during the intervening nineteen years.

What does it take to make us care about our children? The picture we saw is one of a society thriving on greed, cruelty, alienation, and fear—a society which either never had or has completely abandoned the concerns, the ethics, the ideals which make dignity and freedom possible.

What has to be done to convince the Congress of the United States, the most powerful group of men in the world, that the time has come to put aside its greed, its prejudice, its concern for personal power and prestige—and to be concerned for the kind of society in which our children must live together?

You, and only you, can change all this. How is it possible to justify the endless words and the devious political maneuvers which have delayed and withheld meaningful aid to children who don't have enough to eat, children whose parents have no jobs and no money for food or medical care? How can the Congress and our nation's leadership pretend to be related in any sane way to the world around them when they spend their time and the nation's wealth building roads and guns and planes and elaborate governmental buildings while families live 10 or 12 in one room without water, heat, ventilation or even a place to wash their hands?

And children die—even worse—most of them live, numbed by hunger and sickness, motivated only by an instinct for survival, crowded into the ghettoes of horror which abound in our country which produce desperation and loss of faith in our system. Our answer seems to be more police, more guns, and more punitive laws whenever they protest.

We came away from Florida and Texas with tremendous admiration for the leaders of the people we met. These men, often at great risk, working to give their people hope and leadership which would dispel their apathy and despair. In many respects these people were stronger than most of us. They endure what seemed to me to be the unendurable, with patience, humor, and understanding. Remarkable in view of the misery which surrounds them and the powerlessness they experience. They have not given up the hope that we, who can help, will someday raise our voices and say that there are some things in our country which are intolerable, that these things can be changed, and must be changed. Our time is running out.

PROGRESS FOR THE NAVAJO STUDENT

Mr. MOSS. Mr. President, the lot of the American Indian has often been an unhappy one in this white man's world, but it is heartening to see that we are making progress in relations with our Indian friends.

Too often, the little good things that happen are overlooked. But I am happy to report that is not the case with a Youth Center in Brigham City, Utah. Its opening is reported in the January

issue of Wassaja, the National Newspaper of Indian America.

I ask unanimous consent that the article be carried in the CONGRESSIONAL RECORD.

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

A PLACE TO GO FOR NAVAJO STUDENTS

The "Sunset High Spot" at 133 S. Main in Brigham City, Utah has recently opened to give Navajo students attending Intermountain School someplace to go and something to do when they go downtown.

The youth center which is located about ten blocks from the campus is currently open on Saturdays and Sundays to serve the nearly two thousand students of Intermountain School. The student council is operating the center on a trial basis and may make suitable changes as it goes along.

The first floor of the center is now open as a social gathering place for Navajo youth. So far the only activities offered are television and pinball, but the students envision the addition of more recreational facilities, including pool tables. Originally they hoped to open up a food and drink counter, but this proposal was rejected as being too costly. Instead, a soft drink machine was installed and a candy machine is to be put in soon. The students hope to open up the second floor of the building for dances.

The youth center was first proposed by Mayor Olof E. Zundel in October, 1971 after visiting the Navajo Reservation in Window Rock, Arizona and talking with student leaders. The Brigham City Council and the Intermountain School have undertaken the project as joint sponsors. Under this arrangement the city has agreed to pay the $200 monthly rent, as well as the costs of heat and electricity. It has also donated tables, chairs, a new television set, paint, and wood for partitions. The school has provided furniture for the television room. The students themselves painted the building and built the partition enclosing the television area.

THE WAR VICTIMS OF SOUTH VIETNAM

Mr. KENNEDY. Mr. President, the Subcommittee on Refugees, which I serve as chairman, has compiled from official U.S. Government and South Vietnamese sources, a statistical summary of the human costs of the Vietnam war in South Vietnam since 1965. These are the civilians—the men, women, and children—caught over the years in the crunch of escalating violence and war, and they represent the human debris of this war for which we must show compassion and concern.

We cannot begin to know the full dimension of the humanitarian needs of the people of Indochina until we begin to know what impact this war has had on the civilian population and the social fabric of the nations of the region. The following summary of statistics compiled by the Refugee Subcommittee serves to focus attention on the cumulative human costs of the war in South Vietnam only, based upon subcommittee estimates as well as official data made available to the committee from the U.S. Agency for International Development.

As outlined in the following tables, civilian war casualties since 1965 total some 1,350,000—including 415,000 deaths. The bulk of civilian war casualties is attributable in large part to United States and South Vietnamese firepower. Refugees and other war victims since 1965 total some 10,105,400—more than one-half the population of South Vietnam.

By official count, some 213,400 new refugees were registered during the first 3 weeks of the cease-fire. This is a daily average of more than 10,000—twice the daily average during the 1972 North Vietnamese offensive. Civilian war casualties are also running at a high rate during this period.

Also, by official count, the cumulative total of war orphans in South Vietnam now numbers some 826,000—including at least 15,000 American-Asian children. Civilian war casualty amputees number some 70,000 to 80,000, in addition to uncounted thousands in the military. War widows number some 103,000, in addition to uncounted thousands on the civilian side. Blind war victims number some 40,000, and paraplegics are in the thousands.

Mr. President, the massive number of war victims in South Vietnam alone staggers the imagination. And if our country really means what it says about healing the wounds of war, our first investment for peace will be a very active humanitarian concern for the victims of this war—for the millions of orphans and refugees and war victims scattered over the face of Indochina by powerful forces over which they have had so little control.

An international humanitarian alliance must help the people of Indochina to help themselves, and we must be a part of it.

Mr. President, I ask unanimous consent that the statistical summaries on war victims in South Vietnam since 1965 be printed at this point in the RECORD.

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

STATISTICAL SUMMARY OF CIVILIAN WAR CASUALTIES IN SOUTH VIETNAM, 1965–72

Year	Officially reported hospital admissions [1]	Subcommittee casualty estimate including deaths	Subcommittee death estimates
1965	[2] 50,000	100,000	25,000
1966	[2] 50,000	150,000	50,000
1967	49,707	175,000	60,000
1968	86,993	300,000	100,000
1969	66,002	200,000	60,000
1970	59,663	125,000	30,000
1971	50,737	100,000	25,000
1972	53,901	200,000	65,000
Total	457,003	1,350,000	[2] 415,000

[1] Officially reported hospital admissions include admissions to GVN hospitals, as well as admissions to U.S. military hospitals—the latter admissions, however, account for little more than 24,000 of the cumulative total. Officially reported hospital admissions grossly understate the overall civilian war casualty problem, including deaths—during much of 1972, for example, no civilian war casualties, based on hospital admissions, were reported from areas of heavy fighting such as Quang Tri, Kontum, and Binh Long (An Loc)—officially reported hospital admissions exclude all civilian casualties treated elsewhere, those not treated at all, and most significantly, civilians who are killed outright or die before reaching treatment facilities—based on official data and field investigations, the Refugee Subcommittee thus estimates a cumulative total of some 1,350,000 civilian war casualties, including some 415,000 deaths.

By official count since 1967, women and children made up a significant proportion of hospital admissions—during 1972, for example, up to one-third of civilian war casualties were females 13 years old and older, and up to one-fourth were children 12 years old and under—thus, over 50 percent of civilian war casualties were women and children.

By official count since 1967, some 27% of cilivian war casualty hospital admissions were attributed to shelling and bombing, some 20% to gunfire and grenades, and some 53% to mines and mortars—the Refugee Subcommittee estimates that well over 50% of civilian war casualties were attributed to GVN and U.S. firepower.

[2] Estimates.

1972 CIVILIAN WAR CASUALTIES ADMITTED TO SOUTH VIETNAMESE HOSPITALS

Location	January	February	March	April	May	June	July	August	September	October	November	December	Total
Saigon													2,068
Binh Dan	52	46	53	74	65	68	67	80	64	58	47	41	715
Cho Ray	26	20	29	46	92	91	53	51	38	73	64	54	637
Saigon	5	9	10	18	7	6	5	11	12	16	6	9	114
Nhi Dong	18	16	24	30	29	26	18	22	15	20	19	15	252
Nguyen van Hoc	10	8	0	27	115	50	42	21	21	21	17	18	350
MRI													13,857
Da Nang	102	105	157	171	465	240	224	248	167	164	148	96	2,287
Quang Nam	48	83	85	104	257	146	146	363	180	214	221	150	1,997
Quang Ngai	52	22	414	37	451	701	186	255	932	775	654	497	4,976
Quang Tin	127	61	65	137	168	206	97	298	206	172	144	178	1,859
Quant Tri	230	331	363	0	0	0	0	0	0	0	0	0	924
Hue	40	51	64	380	214	110	325	219	135	106	104	66	1,814
MR II													7,611

Location	January	February	March	April	May	June	July	August	September	October	November	December	Total
Binh Dinh	202	86	134	420	457	284	296	289	326	377	320	178	3,369
Binh Thuan	27	22	27	24	73	30	23	37	3	36	15	20	337
Darlac	10	11	3	19	8	4	3	47	14	3	16	13	151
Khanh Hoa	24	36	47	45	80	65	48	63	19	33	41	25	526
Kontum	0	0	0	0	0	0	4	9	15	12	12	10	62
Lam Dong	0	11	0	0	0	17	20	15	13	113	49	28	266
Ninh Thuan	12	5	48	11	13	15	5	20	12	29	11	3	184
Phu Bon	5	11	5	15	19	45	25	38	20	29	25	20	257
Phu Yen	169	195	138	110	82	0	107	199	118	68	86	68	1,340
Pleiku	19	18	62	64	266	75	41	55	60	63	54	55	812
Quan Duc	0	9	0	0	5	0	3	3	5	0	14	0	39
Dalat	13	26	18	29	27	29	30	20	15	20	10	11	248
M R III													6,230
Bien Hoa	17	10	19	23	92	79	29	51	26	38	47	32	463
Binh Duong	17	19	41	84	123	144	87	40	35	107	69	56	822
Binh Long	5	3	0	0	0	0	0	0	0	0	0	0	8
Binh Tuy	1	4	5	1	5	3	2	1	3	2	6	5	38
Hau Nghia	15	14	9	227	227	247	0	17	156	187	179	221	1,490
Long An	104	173	247	234	315	214	57	211	193	168	122	174	2,212
Long Kh nh	0	18	0	0	0		0	39	16	64	47	31	215
Phuoc Long	2	2	17	14	14	7	4	5	10	40	16	1	132
Phuoc Tuy	0	0	0	0	45	25	5	22	4	33	15	5	154
Tay Ninh	36	30	41	95	94	119	74	55	38	33	30	34	679
Vung Tau	0	0	0	5	12	0	0	0	0	0	0	0	17
M R IV													24,035
An Giang	7	3	1	10	6	1	5	4	10	10	10	16	83
An Xuyen	86	45	69	63	76	70	45	48	35	34	67	43	581
Ba Xuyen	206	139	112	126	137	120	89	90	93	60	74	61	1,307
Bac Lieu	45	49	38	51	49	170	125	130	184	175	158	42	1,216
Chau Doc	8	51	31	86	86	48	56	41	80	68	118	139	812
Chuong Thien	15	10	123	213	191	510	397	277	313	330	305	258	2,942
Dinh Tuong	274	250	279	410	375	436	369	279	217	273	425	278	3,865
Go Cong	20	36	105	77	33	18	22	22	8	21	33	9	404
Kien Giang	95	99	77	145	209	202	40	123	112	145	157	56	1,460
Kien Hoa	93	89	88	163	72	101	116	166	134	146	124	109	1,401
Kien Phong	20	32	69	67	25	19	9	17	7	10	18	21	314
Kien Tuon	18	16	13	14	154	1,024	77	67	71	75	85	205	1,819
Phong Din	167	122	135	244	242	222	149	150	171	151	215	218	2,186
Sadec	21	34	21	43	30	12	11	16	11	16	14	17	246
Vinh Binh	79	71	108	168	157	121	66	82	90	72	148	78	1,240
Vinh Long	273	283	427	444	313	345	337	451	339	258	303	286	4,059
Grand total	2,815	2,784	3,812	4,768	5,975	6,465	3,939	4,767	4,746	4,918	4,862	3,950	53,801

Source: USAID/Public Health/PPA/February 1973.

OFFICIAL CIVILIAN WAR CASUALTYS, HOSPITAL ADMISSIONS—1967–72

Ca endar year and location	Admissions, all causes	Mines/mortar		Gun/grenade		Shelling/bombing		Total civilian war casualties
		Number	Percent	Number	Percent	Number	Percent	
1967:								
Saigon	158,905	3,270	75	761	18	293	7	4,324
Region I	89,154	4,058	23	4,472	26	8,800	51	17,330
Region II	68,133	1,741	38	940	20	1,958	42	4,639
Region III	78,546	1,750	48	731	20	1,147	32	3,660
Region IV	160,062	6,870	39	3,989	22	6,944	39	17,803
Total	554,800	17,689	37	10,893	23	19,174	40	47,756
1968:								
Saigon	15,748	8,873	85	1,397	13	145	2	10,415
Region I	93,422	7,024	28	6,548	26	11,665	46	25,237
Region II	66,512	2,705	43	1,008	16	2,578	41	6,291
Region III	67,229	2,686	36	1,692	23	3,065	41	7,443
Region IV	156,404	13,212	44	5,647	19	11,001	37	29,860
Total	537,315	34,500	44	16,292	20	28,454	36	79,246
1969:								
Saigon	174,352	5,250	96	222	4	0		5,472
Region I	112,858	5,310	32	5,131	31	6,124	37	16,565
Region II	76,174	2,606	62	649	16	920	22	4,175
Region III	72,201	1,740	35	1,026	20	2,261	45	5,027
Region IV	181,864	12,558	48	6,270	24	7,391	28	26,219
Total	617,449	27,464	48	13,298	23	16,696	29	57,458
1970:								
Saigon	163,927	2,774	92	230	8	5	2	3,009
Region I	109,302	12,750	72	1,711	9	3,389	19	17,850
Region II	53,986	2,895	69	722	17	575	14	4,192
Region III	99,127	2,450	57	695	16	1,157	27	4,302
Region IV	206,013	15,120	59	1,518	25	4,037	16	15,675
Total	662,255	35,989	66	9,876	17	9,163	17	55,028
1971:								
Saigon	[1] 143,508	1,105	67	335	20	219	13	1,659
Region I	108,176	9,184	68	1,179	9	3,182	23	13,545
Region II	[1] 92,974	2,957	67	915	21	548	12	4,420
Region III	[1] 118,558	2,386	66	424	12	780	22	3,590
Region IV	[1] 232,724	9,259	56	4,675	28	2,512	16	16,446
Total	[1] 695,940	24,891	63	7,528	19	7,241	18	39,660
1972:								
Saigon	181,306	1,281	62	573	28	214	10	2,068
Region I	124,173	6,983	51	3,022	22	3,852	27	13,857
Region II	108,093	5,147	68	906	12	1,558	20	7,611
Region III	96,718	4,197	72	706	11	1,027	17	6,230
Region IV	242,590	15,149	63	5,476	23	3,410	14	24,035
Total	752,880	33,057	61	10,683	20	10,061	19	53,801

[1] Corrected figures in accordance with the 1971 health statistical yearbook of the GVN/Ministry of Health.

STATISTICAL SUMMARY OF REFUGEE AND WAR VICTIM MOVEMENT IN SOUTH VIETNAM, 1965–73

1. Newly Registered Refugees, by official count:

1965	772,000
1966	906,000
1967	463,000
1968	494,000
1969	590,000
1970	129,000
(Registered in 1970 but generated earlier)	281,000
1971	136,000
1972	1,320,000
1973 (as of 2/16)	213,400
(All generated following the Jan. 27 cease-fire)	
Subtotal	5,545,000

2. Displaced persons in PRG controlled areas and other non-registered refugees in 1972—700,000.

3. Cambodian Repatriates, ethnic Vietnamese expelled from Cambodia, 1970—210,000.

4. Estimated Casualty and Damage claimants, including some 1,000,000 temporarily displaced during Tet and May, 1968 offensives—1,650,000.

5. Estimated non-registered refugees including some 1,000,000 in Saigon—2,000,000.

Cumulative total (since 1965)—10,105,400.

THE IMPOUNDER

Mr. WILLIAMS. Mr. President, the world of impoundments, freezes, and possible unconstitutional actions by our Chief Executive is of primary importance to us here. However, countless millions of people throughout the country are equally aware. As a sample, I refer to an editorial in the Daily Journal, Elizabeth, N.J. Its writer has summed up what we are fighting about. Therefore, I ask unanimous consent to have that editorial reprinted in the RECORD at this point.

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

THE IMPOUNDER

The White House has dropped the other shoe on Congress by brazenly deciding it will impound another $8.7 billion in unspent funds. This comes on top of the $6 billion in water pollution control funds authorized by Congress but which President Nixon said he would not spend because it was inflationary.

The President is steaming ahead into a battle royal with Congress over the ultimate authority to spend money, a right that most Americans have long believed rested with the Congress. Even though the Congress lacks the intestinal fortitude and the budget machinery to control its spending habits, for better or for worse that authority should not be allowed to slip into the hands of the White House, Congress can and should mend its purse strings.

The White House has attributed the budgetary crisis to a "credit card Congress," but an examination of White House spending makes the Executive Branch equally to blame for the $80 billion deficits since the Nixon Administration came to power. As Sen. William Proxmire, chairman of the Joint Economic Committee points out, "When Congress adds funds for school lunches, Social Security or black-lung benefits, the administration denounced us as big spenders. But billions for space, defense and highways is either lobbied for by the administration or exempted from the budget ceiling."

Mr. Nixon is seeking both to keep the budget within the ceiling, a laudable aim that Congress should also respect, and to rearrange and drop some priorities that Congress has approved.

In effect, the President is using the power to impound funds, a murky constitutional privilege, as a second veto. Only in this case the Congress is powerless to override the President even if two-thirds of the members want the money restored.

Not all of the impoundment is objectionable. The White House decisions to hold back on $2.5 billion in federal aid funds for highway construction and some old agriculture programs are wise. But others, such as federal food stamps and waste disposal grants, strike a blow at programs that have proven their value and are popular with the American people and the Congress.

Moreover, the impoundment throws into a tailspin many of the state and local budgets which have been constructed around promises of federal revenue sharing and the continuance of the federal grants authorized by Congress. As the big city mayors who toured New York expressed it the other day, the Administration is giving with one hand (revenue sharing) and taking it away with the other (by impounding funds.) Practically none of the major cities and the states are in a position to take over the financing of these grant-in-aid programs for such essential improvements as sewage treatment plants, subsidized apartments, and welfare assistance.

Unless the President's presumed authority to kill spending approved by Congress is checked by an outraged Congress or in the courts, the promise of restoring authority to the states to control their own programs will become nothing more than the old shell game with money being switched around constantly.

NEWS SOURCE PROTECTION ACT

Mr. TUNNEY. Mr. President, last week the Subcommittee on Constitutional Rights, of which I am a member, heard a number of witnesses on the subject of news source protection and the free press. Among those who testified was Senator TOM EAGLETON, of Missouri, the principal sponsor of S. 870, the News Source Protection Act.

Senator EAGLETON's testimony has contributed substantially to our inquiry, embodying as it does an innovative approach to the dual problems of instilling confidence in news sources and ending the harassment of newsmen by way of indiscriminate issuing of subpenas.

I commend this testimony to my colleagues and ask unanimous consent that Senator EAGLETON's written statement to the Subcommittee on Constitutional Rights be inserted at this point in the RECORD.

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

TESTIMONY OF SENATOR THOMAS F. EAGLETON

Mr. Chairman, I welcome this opportunity to testify before the Subcommittee on Constitutional Rights on the issue of news source protection and the free press. I want to express my appreciation to you and the other members of the subcommittee for your leadership in this effort to determine whether we need a "newspaperman's privilege" law and, if so, what kind of privilege would best serve the public interest.

My own view is that we do need such a law, although I believe that the popular "newsman's privilege" label is inappropriate. In preparing the News Source Protection Act (S. 870), my primary concern has not been the protection of newsmen, but rather the protection of a free flow of information as guaranteed by the First Amendment. To the extent that information is available to the public only from sources who insist upon anonymity and protection of background information given in confidence, protection of the free flow of information necessarily means protection of these news sources.

I frankly do not believe that potential news sources will be reassured by a privilege which is riddled with loopholes and exceptions, which applies in one forum or jurisdiction but not another, or which is so complicated as to be incomprehensible. I therefore support a simply drawn, absolute privilege protecting only confidential sources and which would apply in both state and federal forums.

The privilege set out in section 2 of my bill differs somewhat both from the absolute privilege defined in Senator Cranston's bill (S. 158) and from the qualified privileges included in other bills pending before the subcommittee.

The News Source Protection Act sets forth an absolute privilege against compulsory testimony or production of documents by a newsman where the information sought relates to the identity of confidential sources or to any information given to the newsman in confidence. The key is confidentiality. The privilege does not extend to all information which comes to a person in his capacity as a newsman, as it does under the Cranston bill, but rather to confidential source identity and confidential information only.

Nor does the privilege in my bill protect against compulsory disclosure of information which comes to a newsman in his private capacity. If the information sought "relates exclusively to matters unconnected with" the newsman's gathering, compiling, or disseminating of news, he may be compelled to testify or to produce documents on the same basis as any other private citizen.

A second important feature of the News Source Protection Act is the procedural safeguards set forth in sections 4 and 5. These safeguards are intended to put an end to the use of subpoenas as tools of harassment against newsmen—a phenomenon not uncommon in recent years—but providing a mechanism for determining before the issuance of a subpoena whether the information being sought is privileged.

The bill requires a full hearing on the record, with the newsman given an opportunity to be heard and a right of appeal, before the subpoena may be issued. The burden is on the party seeking the subpoena to show that the information is unprivileged. If the information is found to be privileged, the subpoena may not be issued.

The decision as to whether or not a subpoena may be issued against a newsman may be made only by a judge or other specified person of high authority. The bill thereby precludes the issuance of subpoenas on the whim of individual prosecutors, bureaucratic underlings, or (with all due respect to the talented staff in this room) by legislative committee staff.

A third distinction between my bill and others before the subcommittee is the distinction drawn between circumstances under which a newsman may be compelled to testify in an ongoing civil or criminal trial and the circumstances under which he may be compelled to testify before a grand jury, legislative committee, or executive agency.

Proceedings before trial courts differ in at least two basic ways from proceedings before other governmental forums. First, testimony at a trial is strictly circumscribed by rules of evidence which provide that extraneous irrelevant, immaterial information is not acceptable to the court. Counsel for both sides are compelled to stick to the point, with little or no opportunity to "fish" for whatever the newsman may know. By contrast, proceedings before grand juries, investigative and legislative committees and

the like are not subject to strict evidentiary controls and often do become "fishing expeditions."

Secondly, trial courts depend upon cumulative evidence, with each bit of evidence tied to the next bit until a cogent case has been made. It is not unusual for a single person—quite possibly a newsman—to have the precise bit of evidence necessary to make the case for the prosecution or the defense. In the other forums, however, cumulative evidence is not essential to their functioning.

In none of these forums may a newsman be compelled to testify as to privileged (that is, confidential) information; that privilege is absolute. However, a newsman may be compelled to testify as to nonconfidential information gathered in the course of his work at an actual criminal or civil trial where the information is material to the inquiry and equivalent information is not available from another source. (I concede that my "equivalent information" test is debatable.)

Thus, where a newsman is on the beat and happens to see a criminal act being committed, he may be compelled to testify or produce photographs at the trial of the accused, if he is the only source of that information. However, if he witnessed the crime in the context of a confidential relationship with his source—as did Caldwell and Branzburg—he could not be compelled to testify. By way of contrast, the Cranston bill precludes compelled testimony as to all information gathered in the course of the newsman's work; under that bill, he could not be compelled to testify as an eyewitness in either case.

Where the information is sought by grand juries, congressional committees, or other forums with a high potential for "fishing expeditions," the bill imposes a stricter rule. These forums may compel testimony from a newsman only when it does not relate to his work. The mere appearance of a newsman behind the closed door of a grand jury session is enough to chill sources. And it is important to keep opportunities for "fishing" in the newsman's minds and files to an absolute minimum.

Thus, Mr. Chairman, my bill has a double cutting edge. The first edge is the distinction between the kinds of information gathered by a newsman in the course of his work—confidential and nonconfidential—and between information gathered as a newsman and that coming to the newsman in his private capacity. The greatest protection is afforded confidential information; no protection is afforded information which is not related to the newsman's work.

With respect to the middle ground of information, that gathered in the course of a newsman's work but not in a confidential setting, a second cutting edge applies. Here, a distinction is drawn among the forums which may try to get this information. My bill makes it available to the forum which is most likely to have a real need for it and is least likely to harass the press by fishing for extraneous materials—the courts.

While this particular formulation may not be precisely the one the subcommittee prefers, I do think it contains procedural safeguards which should be considered for purposes of discussion and debate.

If you will permit me, Mr. Chairman, I would like to touch briefly on a few additional points.

First, I know that you are not inclined to pre-empt the states in the area of source protection. However, I want to add my voice to those who have already expressed the view that under both the Commerce Clause and the Fourteenth Amendment, Congress does have the authority to pass such a law. News flow knows no state boundaries; stories now travel by almost instant transmission from the smallest town to cities across the country. Many newspapers and broadcast outlets have interstate circulation. I have no doubt that the Commerce Clause would give us the necessary authority to legislate for the states in this area.

With respect to the Fourteenth Amendment, I believe it would be within the authority of Congress to find that the privilege is an essential part of newsgathering activity, a finding which the Supreme Court did not make in its decision last year. Newsgathering is protected under the First Amendment, and if the newsman's privilege is an essential element of that function, it, too, could come under the umbrella of the First Amendment—and be applied to the states through the Fourteenth Amendment and its enacting clause. Thus, it is my view that Congress can make a finding of fact that the protection of confidential news sources is necessary to enhance the First Amendment and to make such finding binding on the states through the Fourteenth Amendment.

I now direct attention to the question of libel as it would relate to the possible required disclosure of confidential sources. Sec. 6(a) of my bill deals with this question, but I must say it deals with it inadequately and must be redrafted.

It is my belief that a libel or slander action should not be available as a vehicle to pry open confidential sources. On the introduction of my bill, I was asked by a reporter, "Well, if your bill immunizes confidential sources in a libel action, won't this run the risk that a journalist might greatly harm an individual by writing a bogus article based on spurious confidential sources?" The blunt answer is that, yes, an innocent person may be harmed. Human reporters writing about human beings will commit human errors. This simply is a price which has to be paid in order to see that the First Amendment guarantee of a free press is not compromised.

Mr. Chairman, I know of the deep reverence you have for the Constitution. I too share that reverence.

I have a particular reverence for the First and Fourteenth Amendments. I feel that even if other portions of the Constitution were altered if we protected the sanctity of the First and Fourteenth Amendments the basic structure of American liberty would be preserved. Therefore, some individuals may well have to pay the price of being the target of erroneous journalism. I repeat, this is a price which simply must be paid in order not to jeopardize the free flow of news.

On the question of libel, I cite for the record the cases of New York Times v. Sullivan, 376 U.S. 254 (1964); St. Amant v. Thompson, 390 U.S. 727 (1968); and Cervantes v. Time Inc., 464 F2d 987 (1972), cert. den. —— U.S. —— (1973).

The Cervantes case is interesting in that the plaintiff in a libel action sought to discover the names of *Life's* confidential sources and the Court of Appeals ruled that *Life* was not required to divulge them.

Again, Mr. Chairman, I commend you and the members of the subcommittee for your efforts in this area. I am hopeful that we can pass a reasonable, effective privilege bill in this session.

A WRECKING CREW AT WORK

Mr. MONDALE. Mr. President, the need for congressional action to help the Office of Economic Opportunity—and in particular its legal services program—has been pointed out on numerous occasions in the past few weeks. A recent article by Austin Wehrwein in the Minneapolis Star has very effectively given us the reasons why this type of action cannot wait. The activities of Howard Phillips will not allow the legal services program to survive much longer. We need action within weeks, not months, if disaster in this program is to be averted.

Mr. President, I ask unanimous consent that the column from the Minneapolis Star be printed at the conclusion of my remarks.

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

A WRECKING CREW AT WORK

(By Austin C. Wehrwein)

When the movie called "The Candidate," starring Robert Redford, begins he is cast as a bright, attractive, tough-minded and yet idealistic California "poverty lawyer."

The film was made for the youth market, and, in fact, no concepts have excited and inspired young people more than "public-interest law."

This is due, to a large extent, to Ralph Nader's personally directed legal crusades.

But just as much it is due to the Legal Services program for the poor.

At the very heart of this office of economic opportunity program is the principle that lawyers, above all, work within the system. But to make the system work the poor need access to it. Conceptually, it could not be more moderate, and the leaders of the American Bar Association (ABA) and various local bar associations have given Legal Services stout support.

The ABA has been but one of many organizations backing the program. But even the active support of some of the most powerful figures in the conservative legal establishment doesn't appear to be enough against the ridiculously arrogant declaration by Howard J. Phillips that "Legal Services is rotten and it will be destroyed."

Phillips is the 32-year-old arch-conservative President Nixon put in charge of the Office of Economic Opportunity (OEO) to destroy it, the admitted strategy being to do so before Congress can come to the rescue.

A prize example of the wrecking crew strategy involves the ABA. At its recent convention in Cleveland the ABA reaffirmed its support of the program and urged that it be insulated by means of a public corporation from political meddling, which is the purpose of legislation sponsored by Sen. Mondale.

The ABA action came in the wake of a Phillips attack. Earlier he had fired an ABA advisory committee on Legal Services, whose membership included ABA President Robert W. Meserve of Boston.

"It is like a nightmare . . . the grossest kind of injustice to the poor," Dean E. Clinton Bamberger of Catholic University Law School, who is also president of the National Legal Aid and Defender Association, said of the Phillips strategy.

All around the country Phillips is creating what one lawyer in the neighborhood program called a "reign of terror." He has fired Theodore Tetzlaf, the program director, and the director of the San Francisco office and his deputy.

Funds are being cut off, travel is restricted, at least six programs are being closed down, 14 legal backup or resource centers are expected to be sabotaged if not closed and records are being reviewed preparatory to what is feared will be mass firings. But a "short ration" policy alone could goad many demoralized people to quit ahead of dismissal.

In Minneapolis, the program is handled by the Legal Aid Society, which has an exemplary record. About two-thirds of the society's budget is currently OEO money. Ostensibly the program is funded through next November. Therefore, it should be in a safer position than programs subject to refunding soon.

But there's been harassment. Recently checks were three months late, and it was necessary to "borrow" money from elsewhere in the OEO. This is government by payroll crisis.

In St. Paul, the vehicle is Legal Assistance of Ramsey County, which will face a moment of truth and consequences when its funding runs out April 30. The third program is a small one for Indians at Cass Lake handled by a separate "desk" in Washington.

Reports, some rumors, some fact, are rife. One with a factual basis is that Phillips will create continual "payroll crises" by funding local projects on 30-day schedules, an impossible way to practice any kind of law because of normal delays in the legal process.

Behind the attack-and-destroy method is a hard-line ideology that happens to fit some practical politics played by Vice-President Agnew and California Gov. Reagan. The official in-house doctrine at OEO is that the neighborhood law offices are out to "promote sweeping social and political change."

There are about 2,500 government poverty lawyers in 900 offices in 300 communities, and in point of fact the bulk of their work is routine law-office business: rent cases, debtor-creditor and family-relationship situations, and so on.

It should be stressed that the program doesn't get into criminal law.

This kind of routine isn't as exciting as idealistic law-school students with a yen for "poverty law" might think. On the other hand there have been some major suits against state and local government agencies, welfare officials and other politicians in their official capacities.

And yet all the lawyers could possibly do was to ask for the enforcement of rights already guaranteed by law. Not withstanding, Agnew, a lawyer himself, found this galling, specifically in a Camden, N.J., case. He injected himself into it, contrary to a cardinal principle that the program creates a lawyer-client relationship just as real as those that exist for paying clients of a conventional law firm. Indeed, it could not be otherwise. In California, Gov. Reagan has objected to cases involving both government agencies and those for chicanos.

Phillips' contention is this:

"Much of their (the lawyers') effort has been aimed at criticizing or embarrassing the government. I don't think this is the proper use of federal funds."

Phillips, no lawyer but a government major at Harvard (class of 1962), was a founder of Young Americans for Freedom. A critic called him a "dormitory debater" who has been given great power to press buttons in an "ideological war."

The only hope now for a continued effective and professional program depends on creation by Congress of a public corporation whose operations and trustees would be insulated from political pressure. The wrecking gang at OEO has demonstrated the need as never before, but whether legislation in response to demonstrated need can pass and whether an operating program can be protected thereafter by Capitol Hill goes to the crux of the larger Capitol-White House power struggle.

A BRAZEN SEIZURE OF POWER

Mr. WILLIAMS. Mr. President, as all of us know, and virtually all of America, we are currently witnessing a struggle which will determine if our Constitution truly will survive as it intended to set up three coequal branches of Government. Our distinguished colleague, and constitutional lawyer, the Honorable SAM J. ERVIN, JR., brought all of his expertise to bear in a piece he wrote for the Washington Post. Because it is such a clear exposition of the crisis our Nation faces, I ask that it be inserted in the RECORD at this point.

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

A BRAZEN SEIZURE OF POWER . . .

(By SAM J. ERVIN, JR.)

The Judiciary subcommittee on Separation of Powers and an ad hoc Subcommittee of the Government Operations Committee have completed five days of hearings on a subject that relates directly to a constitutional crisis in our nation—the question whether the Congress will remain viable, or whether the current trend toward executive usurpation of legislative power will continue unabated until we have a presidential form of government.

Executive impoundment of legally-appropriated funds is only one in a long line of executive usurpations of legislative power which the Congress has condoned by its acquiescence. Indeed, the Separation of Powers Subcommittee has investigated several of the most serious instances, including abuse of the pocket veto power, use of executive agreements to circumvent the constitutional role of the Senate in treaty-making, exercise of lawmaking power through the issuance of executive orders, and the refusal to provide information and testimony to the Congress under the guise of "executive privilege."

The executive branch has seized power brazenly because the Congress has lacked the courage and foresight to maintain its constitutional position. It has failed to equip itself physically to carry out its legislative duties independent of the executive branch, much less to perform its important function of overseeing the activities of the executive branch in administering the programs it has enacted. Moreover, as individuals, too many of us in the Congress have found it more comfortable to have someone else—the President—make the hard decisions and relieve us of responsibility.

Impoundment of appropriated funds is not a new concept. The Separation of Powers Subcommittee conducted hearings almost two years ago during which it revealed that over $12 billion was then being impounded. The practice has expanded since that time and is now being used to terminate or cripple certain programs enacted by the Congress, including the Rural Environmental Assistance Program (REAP); the water pollution control program which the Congress authorized over the President's veto; and the timely allocation of highway trust funds. It is clear that these impoundment actions were undertaken not to save money but to enable the President to make national legislative policy in contravention of the constitutional responsibility of the Congress to make law. In truth, he uses it to effect an item veto which clearly is not authorized by the Constitution.

The President has been quoted as saying that he has the constitutional right to duty to impound. The Constitution that I read has not a syllable giving the President any such authority. It is elementary that the Congress possesses all legislative power under the Constitution, and the President is not empowered to amend its legislative determinations by impoundment actions or otherwise.

However, administration witnesses appearing before the subcommittee have attempted to justify presidential impoundments by saying that the practice has occurred since the administration of President Thomas Jefferson and that such precedents have rendered it legal. Suffice it to say that the perpetration of illegal acts in the present cannot be justified by invoking as precedent the legal aberrations of the past.

The same witnesses also argue that the Anti-Deficiency Act sanctions presidential impoundments. That Act and its legislative history shows that it was specifically designed to prevent undue expenditures in one portion of the year, or in the carrying out of a project which would compel Congress to pass a deficiency bill. It was also intended to save money by making it unnecessary to expend all funds when a given project could be completed for fewer dollars than were appropriated. It cannot be argued that the Act contains any implied authority to impound funds to cancel or curtail a program merely because a President deems it undesirable and decides to give effect to his policy over that of the Congress. Indeed, the arguments advanced by the executive branch are self-serving statements sanctioned neither by the Constitution nor by the statutes enacted by the Congress.

The Impoundment Control Bill, S. 373 which is cosponsored by more than half of the Senate, requires the President to notify the Congress of impoundment actions, and requires him to cease such action unless the Congress has affirmatively approved it within 60 days. To my mind, the President should welcome the passage of this bill, because it would give him an opportunity to convince the Congress that it has over-funded specific programs and would give the Congress an opportunity to reassess its priorities and to rearrange them if such action seems desirable.

Let me emphasize that neither I nor my colleagues who are cosponsoring this bill desire that the executive branch expend the taxpayer's money foolishly. Indeed, I have always favored a balanced federal budget and have voted to uphold the President's veto of certain money bills when I felt the Congress had been extravagant. However, I do not believe that impoundment constitutes a cure for the nation's fiscal and economic woes, even as a practical matter.

In any event, even a lofty motive like the control of inflation, although proclaimed by the President himself, cannot render constitutional an action which inherently is unconstitutional.

Impoundment amounts to government by decree, and if the practice is permitted, the collective voice of 535 members of Congress could be overridden by one man. That would be government without law.

THE UPPSALA DECLARATION ON THE RIGHT TO LEAVE AND THE RIGHT TO RETURN

Mr. KENNEDY. Mr. President, this year marks the 25th anniversary of the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly on December 10, 1948. Although the "common standards of achievement" contained in the declaration are far from being universally implemented, or even recognized, the declaration nevertheless stands as a strong reminder of some international obligations professed by many governments, and of many goals that need our effort and concern as citizens of a democratic society.

Over the years, a growing number of private organizations have become involved in pursuing these goals, and their efforts deserve our tribute and support. A good example of current nongovernmental efforts in the field of human rights has resulted from the colloquium on the right to leave and the right to return, held in Uppsala, Sweden last June. This colloquium, on freedom of movement, was cosponsored by the Jacob

Blaustein Institute for the Advancement of Human Rights of New York, The International Institute of Human Rights—Rene Cassin Foundation—of Strasbourg, and the law faculty of Uppsala University.

A preliminary report of the Uppsala meeting recently came to my attention. It is a forthright statement on the freedom of movement, which I know will be of interest to Members of the Senate and other readers of the RECORD. Mr. President, I ask unanimous consent that the preliminary report of the Uppsala colloquium be placed in the RECORD at this point.

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

DECLARATION ADOPTED BY THE UPPSALA COLLOQUIUM ON THE RIGHT TO LEAVE AND THE RIGHT TO RETURN

(Cosponsored by the Jacob Blaustein Institute for the Advancement of Human Rights, the International Institute of Human Rights (René Cassin Foundation), and the Faculty of Law, the University of Uppsala, Uppsala, Sweden, June 19–21, 1972)

INTRODUCTION

(Morris B. Abram, chairman, Administrative Council, the Jacob Blaustein Institute for the Advancement of Human Rights)

There can be little doubt that the present era will go down in history marred by serious and continuing violations of human rights in many parts of the world. Yet, paradoxically, the same era has also witnessed the growth of an extensive body of international human rights law, developed under the aegis of the United Nations and other intergovernmental organizations. And increasingly, individuals whose rights are violated are appealing to the international community to see to it that this body of law is honored.

One of the egregarious denials of human rights has been the refusal of certain countries to permit their nationals to emigrate, in violation of Article 13, paragraph 2, of the Universal Declaration of Human Rights, which states: "Everyone has the right to leave any country, including his own, and to return to his country."

As world attention has focused on denials of the right to leave, this right has received increased study by legal scholars and nongovernmental organizations. A substantial body of data has developed as to the nature of this right—its philosophical justification, its historical development, its practical implications and its present status in law and fact.

A worldwide study of the right to leave and the right to return, prepared a decade ago for the UN Subcommission on Discrimination and Minorities by Special Rapporteur Judge Jose D. Ingles (present Under-Secretary of State of the Philippines), concluded with a series of recommendations, including a set of draft principles for incorporation in an international declaration or convention. These principles were approved by the Subcommission and sent on to the Commission on Human Rights, for review and approval. But, along with other valuable initiatives, they remained on the Commission's agenda year after year and were postponed repeatedly on the pretext that time did not permit their consideration.

New impetus in this field came in the spring of 1972, with the Uppsala Colloquium on the Right to Leave and to Return, at the University of Uppsala in Sweden on June 19–21, 1972. It was designed to provide a forum for expert discussion and analysis of this right, and to stimulate renewed activity by international bodies in this vital area. The Colloquium was co-sponsored by the Jacob Blaustein Institute for the Advancement of Human Rights in New York, the International Institute for Human Rights of Strasbourg, and the Law Faculty of the University of Uppsala.

The Jacob Blaustein Institute for the Advancement of Human Rights, which was established in 1971 in memory of Jacob Blaustein, prominent industrialist and philanthropist, former President of the American Jewish Committee, and a former member of the U.S. delegation to the UN General Assembly, seeks to promote understanding and implementation of human rights concepts, to foster healthy interreligious relationships and to help overcome the catastrophic effects of the Nazi holocaust. Thus it was singularly appropriate that the Institute's first undertaking should center on the vital human right to leave and to return.

Equally appropriate was the participation of the International Institute for Human Rights. The Institute was established in Strasbourg, France, in 1969 under the leadership of René Cassin, who served for many years as French delegate to and Vice-Chairman of the UN Commission on Human Rights. Professor Cassin won the 1968 Nobel Peace Prize and is today's most eminent spokesman in the cause of human rights. The Strasbourg Institute is a private, independent international association, dedicated to the encouragement of human rights research, the promotion of university-level human rights teaching, the dissemination of publications, and the organization of colloquia and study courses on human rights.

The University of Uppsala has been a renowned center of learning since medieval times, and the participation of its Law Faculty in the Colloquium has lent still further prestige and stature to the proceedings. And since Sweden has in recent decades provided a superb example to other countries as a refuge for victims of racial, religious and political persecution, it is particularly fitting that the meeting should take place within its borders.

Among the major aims of the Colloquium, as agreed upon by the sponsoring organizations, were:

1. To place the right to leave and to return in its proper historical and philosophical perspective.

2. To ascertain the degree to which this international right is enforced in national law.

3. To examine the international legal safeguards surrounding that right, and possible mechanisms of international implementation through new or existing instruments.

4. To develop a Statement or Declaration that would express expert opinion on the status of the right.

As a frame of reference for the participants in considering current aspects and problems, a group of distinguished scholars prepared background papers on the legal status of the right to leave and to return and wherever data was available, on how that right was observed in different parts of the world. Other scholars prepared papers examining the same right from a philosophical and historical perspective.

Experts from some 25 countries took part in the Colloquium. They reviewed the existing constitutional, statutory and administrative provisions guaranteeing the right to leave and to return, and current policies and practices related to this right around the world. Their examination revealed the extent to which local situations conformed to, or fell short of, the standard set by Article 13, paragraph 2 of the Universal Declaration of Human Rights, as elucidated in the draft principles proposed by Judge Ingles. On the basis of their analysis, the Uppsala Declaration reproduced in these pages was developed and adopted.

In addition to reaffirming the fundamental principles already set down in international law, the Uppsala Declaration focuses attention on devices and subterfuges utilized to circumvent these principles: exaggerated requirements of "national security," bureaucratic harassment and official and unofficial pressures on persons seeking to exercise their rights.

A volume will be published in the near future comprising the background papers and the proceedings, conclusions and recommendations of the Colloquium. Meanwhile, in response to requests from many sources, the sponsoring organizations are pleased to make the text of the Declaration available. It is our hope that it will stimulate action toward adoption of new UN and regional instruments—conventions and declarations—to implement and safeguard the right to leave and to return. In addition, whatever the outcome of efforts to this end, we profoundly hope it will exert a direct positive influence on world opinion, and thereby on the laws and practices of individual states.

PREFACE

(René Cassin, president, International Institute of Human Rights, Nobel Peace Prize Recipient, 1968)

In presenting the Uppsala Declaration adopted at the closing session of the Colloquium, held in June 1972, I wish to express my gratitude to the University of Uppsala for welcoming us to work within its walls. The University demonstrated once more how worthy it is of the mission it has been fulfilling for centuries, that of advancing good will and mutual understanding among members of the human family. My thanks also go to The Jacob Blaustein Institute for the Advancement of Human Rights, which, by joining with us and making this Colloquium possible, was faithful to the inspiration of the man whose name it bears.

It should be recognized that human history has been marked by many migrations, which generally have occurred from East to West, rather than from West to East. As each scientific advance has made travel easier, these migrations have given rise to increasingly difficult intellectual, practical, technical and political problems.

Today, mankind is concerned with freedom of movement in three respects—movement of men, ideas and goods. Of these, the last, the free flow of goods, is more widely accepted than that of men or ideas. Apparently it has been easier to move toward a world economy in which goods can move freely from one country to another, than one in which men can leave their countries, temporarily or permanently. This is a major problem in a world both smaller and more densely populated than in the past, as is also the problem of the free circulation of ideas.

Our attention at Uppsala focused on the free movement of people. Obviously, this is a problem charged with political implications, which nevertheless must be confronted and solved. It can be discussed with scientific detachment only in the university, which serves as the guardian and constant defender of human dignity by encouraging and making possible the pursuit of objective scholarship as well as by sensitizing youth to the ideals of justice and freedom.

The Universal Declaration (Article 13) proclaims the human right to freedom of movement, including the right of everyone to leave any country, and to return to his country. Since the world's entire population, three billion human beings, is involved here, this principle must be understood and spelled out in its many ramifications and implications.

This we endeavored to do at Uppsala. Have we succeeded? Since I took an active part in drafting that most important document, the Uppsala Declaration, I shall leave it to others to judge. Underlying the legal terms in which it is framed, its intent is

to strongly encourage the liberal application of the freedom it proclaims and particularizes.

In this connection, the persistent and painful problem of Soviet Jewry deserves sympathetic consideration by the Soviet Government, commensurate with that country's great power and prestige. Law, justice and interest, properly understood, unite in pointing toward the one solution which will re-establish that indestructible core of all human rights, freedom of choice—in this case, the choice of whether to stay or to leave.

We who participated at Uppsala recognized as well the important problem of the Arab refugees and the need for a humane solution. The Middle East crisis cannot be resolved without taking into account the needs of all refugees in the region, Arab and Jewish.

Human rights make up a whole, in time and space. The right to leave and to return to one's country, perhaps more than any other human right, highlights the basic unity of mankind. If the Uppsala Colloquium has succeeded in illustrating this unity, the Faculty of Law of Uppsala University, the Jacob Blaustein Institute and the International Institute of Human Rights have reason to feel satisfaction and pride.

THE RIGHT TO LEAVE AND THE RIGHT TO RETURN

(A declaration adopted by the Uppsala Colloquium, Uppsala, Sweden, June 21, 1972)

Preamble

Whereas the Universal Declaration of Human Rights proclaims the fundamental principle that everyone has the right to leave any country, including his own, and to return to his country;

Whereas this fundamental human right has been recognized also in the International Covenant on Civil and Political Rights, in the International Convention on the Elimination of All Forms of Racial Discrimination, in regional conventions, and in the constitutions and laws of many countries;

Whereas the protection of this right is essential for the effective enjoyment of other human rights and fundamental freedoms, and promotes mutual understanding and cooperation among the peoples of the world;

Whereas denials of this right are the cause of widespread human suffering and a source of grave international concern;

Now therefore the Uppsala Colloquium urges upon all nations the elaboration, implementation and enforcement of the following principes through effective international machinery and international laws and processes.

Chapter I: The right to leave

Article 1:

Everyone has the right to leave any country, including his own.

Article 2:

Every State shall recognize, implement and enforce the right of any person to leave its territory, temporarily or permanently.

Article 3:

(a) No person shall be required to renounce his nationality as a condition of the exercise of the right to leave a country.

(b) No person shall be deprived of his nationality for seeking to exercise or for exercising the right to leave a country.

(c) No person shall be denied the right to leave a country because he wishes to renounce or has renounced his nationality.

Article 4:

(a) No state shall suject a person or his family to reprisals, sanctions, penalties or harassment, for seeking to exercise or for exercising the right to leave a country.

(b) Every state shall ensure that no person or his family is subjected to private or other unofficial reprisals or harassment for seeking to exercise or for exercising his right to leave a country.

Article 5:

(a) Any person who wishes to leave a country is entitled to take out of the country:

(i) his household effects and the tools required for the exercise of his profession or skill, subject only to provision for satisfying any legal monetary obligations;

(ii) all other property or the proceeds thereof, subject only to provision for satisfying legal monetary obligations and subject to general controls imposed to safeguard the national economy, provided that such controls contain reasonable exceptions designed to minimize interference with the ability of the departing person to take out his property.

(b) Property or the proceeds thereof which cannot be taken out of the country because of such controls shall remain vested in the departing person who shall remain free to dispose of such property or proceeds within the country.

(c) No special fees, taxes or other exactions shall be imposed for exercising the right to leave a country.

Article 6:

A person's right to leave a country shall be subject only to such reasonable limitations as are necessary to prevent a clear and present danger to the national security or public order, or to comply with international health regulations; and only if such limitations are provided for by law, are clear and specific, are not subject to arbitrary application and do not destroy the substance of the rights.

Article 7:

(a) No one shall be hindered in or penalized for communicating with or petitioning the United Nations or other inter-governmental or non-governmental organizations complaining of the denial of the right to leave a country or seeking their assistance in the exercise of this right.

(b) No one shall be penalized for or prevented from comunicating with foreign consular or diplomatic officials with a view to obtaining travel documents or permits.

(c) A person who claims to be a national of another state shall not be prevented from seeking the assistance of that state in order to ensure his right to leave the country.

Article 8:

No person shall be deprived of his nationality, or be subject to any other reprisal, sanction, penalty or harassment for travelling or establishing a residence in another country.

Chapter II: The right to return

Article 9:

Every person is entitled to return to the country of which he is a national.

Article 10:

No person shall be deprived of his nationality for the purpose of divesting him of the right to return to his country.

Article 11:

No person shall be required as a condition of the exercise of the right to return to his country of nationality to pay special fees, taxes or other exactions.

Article 12:

The re-entry of long-term residents who are not nationals, including stateless persons, may be refused only in the most exceptional circumstances.

Chapter III: Travel documents

Article 13:

No person shall be denied such travel documents or permits as may be required for him to leave a country or to return to the country of his nationality. Such documents or permits shall be subject only to nominal fees.

Article 14:

The procedures and formalities for issuing any travel documents or permits and the conditions for their denial, withdrawal or cancellation, as well as any fees required, shall be provided by law or regulations which shall be made readily accessible to the public.

Article 15:

(a) The procedures and formalities connected with applying for and issuing any travel document or permit shall be communicated promptly in writing to any applicant making a request therefor.

(b) These procedures and formalities shall not be unreasonable, burdensome or lengthy.

(c) Every person filing an application for any travel document or permit shall be entitled to obtain promptly a duly certified receipt for the application.

Article 16:

(a) Any application for a travel document or for permission to leave a country or to return to one's country of nationality, shall be acted upon and the applicant informed of the action within a reasonable period of time specified by law.

(b) Where any necessary permission or document is denied, withdrawn, cancelled or postponed, the applicant shall be informed officially and in writing of the reasons for the decision and of the remedies available to him.

Chapter IV: general provisions

Article 17:

The limitations permitted under this Declaration shall be applied without regard to race, colour, sex, language, religion, political or other opinion, national or social origin, membership in a national or ethnic minority, education, profession, skill, property, birth, marriage or other status, and shall not be applied for any purpose other than that for which they are permitted.

Article 18:

Any person who claims that his rights as proclaimed in this Declaration are being infringed or violated shall have a prompt and effective recourse to a national tribunal to seek enforcement of his rights.

Article 19:

The tribunal described in Article 18 shall be independent and impartial and shall accord the individual a fair and public hearing, including the right to be represented by counsel, to examine and to have examined witnesses and evidence and to produce evidence in his favour. The tribunal's decision shall be expeditious and it and the grounds therefor shall be communicated promptly to the individual.

Article 20:

Nothing in this Declaration shall be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at destroying any of the rights set forth herein or at limiting them to a greater extent than is provided for in this Declaration.

THE UPPSALA COLLOQUIUM ON THE RIGHT TO LEAVE AND THE RIGHT TO RETURN, UPPSALA, SWEDEN, JUNE 19-21, 1972

Co-Chairmen

Svante Bergstrom, Dean, Faculty of Law, University of Uppsala; Sweden.

René Cassin, President, International Institute for Human Rights (René Cassin Foundation); France.

Bertram Gold, Executive-Director, The Jacob Blaustein Institute for the Advancement of Human Rights; U.S.A.

Coordinators

Sidney Liskofsky, The Jacob Blaustein Institute for the Advancement of Human Rights; UN Representative, International League for the Rights of Man; U.S.A.

Karel Vasak, Secretary-General, International Institute for Human Rights; France.

Presentations

National Implementation in Canada: Harry Batshaw, Judge, Superior Court of Montreal; Chairman, Human Rights Committee, International Law Association; Canada.

National Implementatiton in English-speaking Africa: Godfrey Binaisa, President, Uganda Law Society; Former Attorney-General and Minister of Justice of Uganda; Uganda.

International Implementation on the Universal Level: Antonio Cassese, Professor, Law Faculty, University of Pisa; Italian Delegate to the UN Commission on Human Rights; Italy.

The Rights of Convicted Persons to Leave Their Country: V. N. Chalidze, physicist; member, Moscow Committee for Human Rights; U.S.S.R.

Philosophical and Political Aspects of the Right to Leave and to Return: Maurice Cranston, Professor, London School of Economics and Political Science; England.

National Implementation in the United States: Edward Ennis, Former General-Counsel, U.S. Immigration and Naturalization Service; Chairman, American Civil Liberties Union and American Immigration and Citizenship Conference; U.S.A.

National Implementation in French, Portuguese and Spanish-speaking Africa: Ousmane Goundiam, Former Chief Legal-Counsel, UN High Commissioner for Refugees; Procurator-General, Supreme Court of Senegal; Senegal.

Historical Aspects of the Right to Leave and to Return: Stig Jägerskiöld, Professor of Law, University of Uppsala, Sweden.

National Implementation in Central and Eastern Europe: Branimir Jankovic, Professor, University of Belgrade; Director, Institute of Social Sciences of Belgrade; Member, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities; Jugoslavia.

Report on the UN Study of Discrimination in Respect of the Right to Leave and Return, by Jose D. Ingles, 1963: Sidney Liskofsky, Attorney; Jacob Blaustein Institute for the Advancement of Human Rights.

National Implementation in the Indo-Pakistani Sub-Continent: Niall MacDermot, British Barrister; Secretary-General, International Commission of Jurists; Switzerland.

National Implementation in the Far East and Oceania: David Marshall, Attorney; Former Prime-Minister of Singapore; Singapore.

National Implementation in Western Europe: Karl Josef Partsch, Professor of Law, University of Bonn; Member, UN Committee for the Elimination of Racial Discrimination; Federal Republic of Germany.

National Implementation in Central and Eastern Europe: Louis Pettiti, Attorney; President, International Association of Catholic Jurists; France.

National Implementation in Latin America: Jesus Rodrigues, Professor of Law; Director, Institute of Legal Research, National University of Mexico; Mexico.

National Implementation in Eastern Europe: Jiri Toman, Director of Research, Henry Dunant Institute; Switzerland.

National Implementation in the Middle East: Paul Weis, former Chief Legal-Counsel, UN High Commissioner for Refugees; Switzerland.

Rapporteur

Stig Strömholm, Professor of Jurisprudence, Law Faculty, Uppsala University; Sweden.

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SOCIAL SECURITY PASSTHROUGH

Mr. TUNNEY. Mr. President, the legislation Senator CRANSTON and I have offered (S. 926) is designed to give fiscal assistance to a minority whose needs cannot be denied. I refer to the over one and a quarter million elderly people who depend on both social security and public assistance payments for their income.

They have little or no capacity to absorb the impact of increasing costs and prices. These are the people of our Nation who have a crying need for assistance to make ends meet, to be given in some measure a counterbalance to the inroads already made upon their meager incomes by the ever-present paring knife of inflation.

Mr. President, unless a passthrough provision is enacted, many of these elderly people will not receive the benefit of any of the 20-percent social security increase voted last year by the Congress. Instead, their old-age assistance payments have been reduced dollar for dollar according to the size of their social security payments. In the absence of legislation along the lines of our bill, the recent social security increase will continue to be used to decrease State-financed assistance. Each dollar of the social security increase which decreases a recipient's public assistance grant is a dollar that is not going into the pockets of the elderly poor.

In the Nation as a whole, there are approximately 1,277,000 people receiving both social security as well as old-age assistance. In California alone, there are approximately 229,000 retired persons receiving such payments.

Therefore, the purpose of our bill is to require that an individual receiving both social security and old-age assistance must receive an extra $15 a month or the full amount as a result of the 20-percent increase—whichever is less.

Thus, the 20-percent increase reflected in last October's checks will be passed along to recipients and not merely used by the States to reduce other assistance programs.

The need for this legislation is urgent. Since October, elderly people have not received full benefit of the increase in social security payments. I am hopeful the Congress will act quickly on this measure.

RULES OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, at its meeting on February 7, 1973, the Committee on Labor and Public Welfare amended the rules governing the committee's procedures.

I send to the desk a copy of the committee's amended rules, and ask unanimous consent that it be printed in the RECORD as required by section 133B of the Legislative Reorganization Act of 1946, as amended.

There being no objection, the rules 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, February 7, 1973)

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. (a) Subject to paragraphs (b) and (c), one-third of the membership of the Committee or a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business. 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.

(b) 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.

(c) A quorum as defined in paragraph (a) will be sufficient for ordering reported a measure or matter from a subcommittee; provided, that if any member present objects to so proceeding, the measure or matter shall not be ordered reported at such meeting unless a majority of the subcommittee is actually present at the time such action is taken. If, at any subcommittee meeting, a measure or matter fails to be ordered reported because of an objection to taking such action without a majority of the subcommittee actually present, the chairman of the subcommittee may, by giving notice of at least two calendar days during which the Senate is in session, call a subsequent meeting for the purpose of reporting such measure or matter, and at such subsequent meeting the subcommittee may proceed on the basis of a quorum as defined in paragraph (a).

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 subcommitee 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 majority 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 Committee may, by majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation, shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

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 gov-

erned by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

NATIONAL ACADEMY OF SCIENCES REPORT ON MOTOR VEHICLE EMISSIONS

Mr. MUSKIE. Mr. President, there has been much discussion recently of the possibility or impossibility of attaining the levels of auto emissions control required by the 1970 clean air amendments.

The 1970 Clean Air Act required the National Academy of Sciences to conduct an annual review of the technical capability of the auto industry to meet 1975–76 clean car standards. The second major report of the National Academy of Sciences Committee on Motor Vehicle Emissions has been released. Their conclusion is, and I quote:

Achievement of the 1975 standards may be technologically feasible and that achievement of the 1976 standards is likely but may not be attainable on the established schedule.

In perhaps the most important statement of the report, however, the National Academy of Sciences states that of the several technological alternatives available to meet the standards, the alternative currently being pursued by the auto companies is potentially the most expensive and least dependable of all the alternatives.

The material in this report is an important contribution to the current discussion about the automotive emission standards set by the Clean Air Act. For this reason, Mr. President, and because it may be weeks before the document is generally available to the public, I ask that the report of the National Academy of Sciences Committee on Motor Vehicle Emission be included in the RECORD at this point.

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

NATIONAL ACADEMY OF SCIENCES
February 15, 1973.

THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

SIRS: I have the honor to transmit a report summarizing the work and findings of our Committee on Motor Vehicle Emissions in accord with the provisions of Section 6 of Public Law 91–604, the Clean Air Amendments of 1970. We trust that this report will be of assistance to the Administrator of the Environmental Protection Agency in discharging his responsibilities under that Act and that it will inform the Congress of the progress which has been made, to date, toward achieving some of the goals of that Act.

The report constitutes a description, as of 1 February, of the "technological feasibility," on the part of the automobile and related industries, of achieving the automotive emissions control standards established by the Act. As the report reveals, that Act has stimulated an almost worldwide effort to develop effective emissions control systems. Of necessity, however, this report is presented at a time when the pace of development can readily overtake categorical conclusions based on the information available today; it is, therefore, a review of the current "state-of-the-art," presented while that state is changing rapidly, and not a summary of a stabilized situation. It is for that reason, inter alia, that the report presents an analysis but offers no recommendations concerning enforcement, on schedule, of the relevant provisions of the Act.

The Committee defined "technological feasibility" to mean that an emissions control system capable of meeting the standards set for the three major pollutants can be developed, designed, produced in large numbers, and maintained in service, all at reasonable cost. *By these criteria, the Committee's analysis indicates that achievement of the 1975 standards may be technologically feasible and that achievement of the 1976 standards is likely but may not be attainable on the established schedule.*

However, these seemingly definitive conclusions are offered with several reservations which are held in varying degrees of gravity by individual members of the Committee. The nature of these reservations will be found in the report. They are concerned, variously, with the durability in customer use of catalyst-dependent control systems, the requirement for a network of inspection and maintenance stations, the actual likelihood of sufficiently early development of a dual-catalyst system capable of achieving the 1976 standards, and the likelihood of manufacture for Model Year 1976, on a scale commensurate with projected total national production, of a sufficient number of vehicles actually capable of meeting the 1976 standards in customer use.

The Committee is seriously concerned that the certification procedure may not prove to be an adequate indicator of the continuing reliability of catalyst-dependent, emissions control systems under the more stressful, varied conditions of consumer use. Data in this regard are not yet available, even for systems intended to meet the 1975 standards. To assure that vehicle classes certified for production actually do continue to meet the prescribed standards, the Committee considers it advisable to develop a network of inspection and maintenance stations and to train a corps of mechanics sufficient to that task. Some of the Committee, however, suggest that no more need be done than to enforce the recall provision of the Act, when so indicated by defective behavior of a reasonable sample of vehicles. It should be noted, however, that whereas that provision is binding upon the manufacturer, it is not mandatory for the vehicle owner to respond. In view of the low response to recalls for defects relating to passenger safety (30 to 50%), simple use of the recall provision under these circumstances would not suffice to meet the goals of the Act. In this regard also, it should be noted that there is not available, for such national use, a relatively simple, foolproof, reliable, diagnostic instrument for assessment of the automotive emission of the three pollutants with which the Act is concerned. It may be necessary for the Environmental Protection Agency to stimulate the research and development required to make such instrumentation available on the schedule necessitated by the Act.

The Committee found it unnecessary and inadvisable to recommend a set of interim standards for 1975 or 1976 model year vehicles. But, while contemplating its responsibility for such a recommendation, under the terms of the contract, the Committee became aware of controversies surrounding many aspects of the problem of standard setting, e.g., the nature and magnitude of the hazards to health posed by the pollutants released in automotive emissions, the relationships among the various pollutants and their ambient concentrations with respect to their health effects, the relative contributions of mobile and stationary power sources, etc. Resolution of these controversies appears imperative to long-term policy with respect to the protection of air quality. Hence, on page 127, the Committee urges that Congress and the Environmental Protection Agency initiate a comprehensive study of these and related matters. This Academy would be pleased to be of assistance in such an effort. That recommendation should not be interpreted as taking exception to the standards established by the Clean Air Act of 1970. Most of the Committee believes that only if such an examination were to reveal compelling evidence and arguments to the contrary should the effort to achieve the emissions control standards established by the Act be relaxed; indeed, the Committee is particularly concerned that continued progress be made with respect to improvement of air quality in those urban centers where, patently, automotive emissions have contributed significantly to the deterioration of the local environment.

A major quandary which the Committee wishes to place before the Congress and the Environmental Protection Agency (page 5) arises from awareness of the relatively recent development, largely in the hands of a Japanese manufacturer, of a dual-carbureted, stratified charge engine. Although the general principle is not new, the particular design in question, incorporated into small size engines, has met the 1975 certification standards and bids fair to meet the 1976 standards. As compared with the catalyst-dependent systems now being emphasized by the major manufacturers this system offers the promise of lower initial purchase costs, greater durability in servce and significantly greater fuel economy. The Committee is concerned that mass production of what are presently deemed to be relatively fragile, catalyst-dependent systems, of unproved reliability in actual service, may engender an episode of considerable national turmoil. It is further concerned that, once committed to the manufacture of catalyst-dependent control systems, rather than switch to some more generally acceptable system such as a version of the stratified charge engine that now offers great promise, the relatively ponderous automobile industry will continue to manufacture catalyst-dependent systems for some years, albeit, presumably, while also seeking more durable catalysts and mechanisms to reduce the severe fuel penalty of current catalyst-dependent systems with their associated mechanical features. The dilemma, then, is to determine what course of action, by government, would assure the earliest possible optimal outcome while scrupulously avoiding dictation, by government, of the technology to be used. The Committee offers no recommendations in this regard.

Relevant to this situation are the costs, per vehicle, associated with the initial purchase, maintenance and operation (including the effects on fuel consumption) of the various emissions control systems under consideration. The annualized incremental costs, viz., the cost per car/year for a standard engine, relative to a 1970 standard engine, due to the emission control system, for operation and maintenance of the vehicle with the purchase cost of the system amortized over the first five years of operation, were found, by the Committee to be as follows: 1973 engine, about $100; single catalyst system (1975 standards), about $225; dual catalyst system (1976 standards), about $270; and the dual-carbureted stratified charge engine, about $70. The high annualized costs of the catalyst systems reflect the serious associated fuel penalties.

For the nation, these costs represent a concrete example of the principle that the costs of environmental protection can be met only if they are internalized. The magnitude of this process derives from the great numbers involved, viz., about 10^7 (10 million) vehicles produced per year and almost 10^8 (100 million) registered automobiles. Thus, a one-year production of 10^7 vehicles equipped with the presently proposed dual-catalyst system would result in additional expenditures—as compared with 1970 automobiles—of $2.7

billion per year for each of the first five years of the life of that model year of cars, *assuming constant fuel prices*, and about $2 billion per year thereafter.

In due course, all vehicles will be equipped with emission controls capable of meeting the 1976 standards. Were all (10^8) cars equipped with the dual-catalyst system, at current costs this would result in a national annual total expenditure for emissions control of the order of $23.5 billion (assuming a mean life of ten years/car with purchase cost amortized over the first five years, and current fuel prices).

Such figures are to be taken as no more than an indication of their orders of magnitude. The increased sticker price would tend to cause consumers to buy smaller cars of greater fuel economy and the fuel penalty would tend to reduce mileage. The initial costs will probably decline as dual-catalyst systems and their manufacture are improved. On the other hand these gains could be offset by the foreseeable rise in fuel prices. Unless satisfactory feedback control and fuel injection systems, for catalyst-dependent systems with the associated mechanical features, become available, the total costs will be dominated by the fuel penalty associated with such systems. These costs, in dollars and in depletion of fuel reserves, are so great that they should serve as a national incentive to hasten the development of reliable lower-cost alternatives to the dual-catalyst system as a solution to the problem of emissions control.

In contrast, several of the promising alternatives, such as the carbureted stratified-charge engine, carry with them costs of the order of those already associated with the 1973 engine, viz., an annualized cost for emissions control of about $100/car during the first five years of service, for an annualized total of perhaps $7.5 billion for the full fleet of 108 cars.

Costs of these magnitudes suggest, of themselves, the need for attention to a series of considerations which lie outside the scope of the present report. Among such questions are: What is the effect of this enterprise on the GNP? Is it, in effect, a stimulus to the overall economy or are the funds utilized to defray these expenditures removed from alternate uses in the economy, e.g., for improvement in the health care delivery system? If the answer to the latter is affirmative in significant measure, is this the wisest use of such funds for protection of the public health? What effects would large-scale employment of the most promising emissions control systems have on the international balance of payments? If emissions control can only be satisfactorily accomplished by acceptance of a large fuel penalty, e.g., the dual-catalyst system or the Wankel engine with thermal reactor, what judgment should be made under such circumstances? Should it turn out that noble metal catalysts are more effective and, seemingly, economic than other catalysts, how should one weigh this raid on the very limited supply of this resource in the skin of the planet?

Whereas pollutant emission is undesirable anywhere, emission control does not appear, today, to be essential on the basis of either essentially aesthetic or health considerations in large areas of the nation. Indeed, overall, natural production of hydrocarbons, carbon monoxide and perhaps NO_x far exceeds that from man-made sources. In view of the costs to the nation, in dollars and in fuel consumption, of early implementation of the 1975–76 standards, attention seems warranted to the possibility of temporarily enforcing the established emission standards only in those specific urban areas where air quality is known to be adversely affected by automotive emissions, reserving national implementation for the day when there are available reliable, relatively inexpensive emissions control systems which exact no fuel penalty.

Emissions control is but one aspect of "the problem of the automobile" in our society. This device has given Americans an "automobility" unknown in previous human history, enriched the personal experience of each of us, broadened our horizons and helped to make the large expanse of American geography into one nation. But this aspect of our society has begun to be defeated by its very success.

The automobile has also accelerated depletion of several critical natural resources, including the petroleum which fuels it. It has scarred the land and choked the city, contributing seriously to deterioration of the quality of urban life. In the long run, the truly effective mechanisms for emission control must include a significant reduction in the number of cars operated in the city, a solution dependent upon acceptable, public mass transit systems, and a substantial reduction in the mean size (weight, volume, and horsepower) of those automobiles which do function in the city, as well as, perhaps, redistribution of the pattern of physical relationships among dwelling and working areas. Patently, these are relatively long-term goals, achievement of which will require extensive, meticulous study and planning with subsequent large public expenditures and careful public intervention into the behavior of the private sector.

For the short term, however, automotive emissions control can be accomplished by a relatively simpler, technological "quick fix," and, perhaps, on the schedule established by the Clean Air Amendments of 1970. The attached report summarizes the status of the alternatives currently offered as means whereby to achieve the earliest acceptable technological solution to this problem.

Respectfully yours,

PHILIP HANDLER,
President.

NATIONAL RESEARCH COUNCIL, NATIONAL ACADEMY OF SCIENCES, NATIONAL ACADEMY OF ENGINEERING,
Washington, D.C., February 12, 1973.

Dr. PHILIP HANDLER,
President, National Academy of Sciences, Washington, D.C.

DEAR PRESIDENT HANDLER: I am herewith transmitting for submission by the Academy to the Congress and to the Environmental Protection Agency the Report of the Committee on Motor Vehicle Emissions dated February 12, 1973.

Sincerely yours,

E. L. GINZTON,
Chairman.

REPORT BY THE COMMITTEE ON MOTOR VEHICLE EMISSIONS, DIVISION OF ENGINEERING, NATIONAL RESEARCH COUNCIL IN ACCORDANCE WITH SECTION 202(c) OF THE CLEAN AIR AMENDMENTS OF 1970 AND IN PARTIAL FULFILLMENT OF CONTRACT NO. 68-01-0402, BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND THE NATIONAL ACADEMY OF SCIENCES

NOTICE

The study reported herein was undertaken under the aegis of the National Academy of Sciences and with the express approval of the Governing Board of the National Research Council. Such approval indicated that the Board considered that the problem is of national significance; that elucidation and/or solution of the problem required scientific and technical competence and that the resources of the National Research Council were particularly suitable to the conduct of the project.

The members of the committee were selected for their individual scholarly and technical competence and judgment with due consideration for the balance and breadth of disciplines. Responsibility for the detailed aspects of this report rests with the committee, to whom we express our sincere appreciation.

Reports of our study committees are not submitted for approval to the Academy membership. The report was reviewed by a panel of Academy members according to procedures established and monitored by the Academy's Report Review Committee. Such reviews are intended to determine, inter alia, whether the major questions and relevant points of view have been addressed and whether the reported findings, conclusions and recommendations arose from the available data and information. Distribution of the report was approved, by the President, only after completion of this review process.

SUMMARY AND CONCLUSIONS

In legislating the Clean Air Amendments of 1970, the Congress asked the Environmental Protection Agency (EPA) to contract with the National Academy of Sciences (NAS) to conduct a comprehensive study and investigation of the technological feasibility of meeting the motor vehicle emissions standards prescribed in accordance with the law. In responding to this request, pursuant to a contract with the EPA, the Academy established a Committee on Motor Vehicle Emissions (CMVE) and charged it with the conduct of this study.

In its investigation of "technological feasibility," the CMVE addressed the following issues:

1. Determination of the feasibility of developing and designing an emissions control system that would enable compliance with the legally established emissions standards as judged by the certification procedures prescribed by the EPA.

2. The feasibility of mass producing those systems of promising design.

3. The projected performance of such emissions control systems in customer usage, including the requirements for maintenance necessary to assure continuing reliability.

4. The costs, per vehicle, associated with acquisition, maintenance, and operation of the emissions control system.

In the course of its work, the Committee has examined the variety of approaches of manufacturres and others to the problems relating to emissions control. At the time of this report, progress toward resolution of these problems in the four aspects listed above, although rapid, is uneven and uncertain, and the outlook toward 1975 and 1976 is not yet clear. Moreover, the rapid pace of that progress complicates judgment concerning the most appropriate course of action for attainment of the standards required by the law.

For 1975 model year light-duty motor vehicles, the Committee concludes that—

1. Four types of systems will meet the prescribed emissions standards during certification testing. These are: the modified conventional engine equipped with an oxidation catalyst, the carbureted stratified-charge engine, the Wankel engine equipped with an exhaust thermal reactor, and the diesel engine. For the catalyst system, one catalyst change must be permitted during the 50,000-mile durability testing for certification, and fuel with a suitably low level of catalyst poisons must be allowed. In determining whether vehicles mass-produced comply with an outstanding certificate of conformity under Section 206 of the Clean Air Act, provisions must be made for averaging of emission test results within a vehicle and engine class.

2. Vehicles incorporating these systems can be mass-produced in great enough volume to satisfy, in aggregate, the expected demand for vehicles in model year 1975.

3. It is important for two reasons that a

suitable maintenance and inspection system be established for vehicles in use by the public.

First, there are no data concerning the deterioration of emission-control systems under conditions of customer use, and the Committee believes that the certification procedure alone is not a sufficient indicator of system durability. Even if it is demonstrated that properly maintained vehicles can comply with the standards under conditions of customer use, an adequate vehicle maintenance and inspection system will be required to assure that most vehicles will meet the standards when used by the general public; this is especially important for catalyst-equipped vehicles.

Second, if it is determined that a substantial number of any class of vehicles or engines, although properly maintained and used, is not meeting the standards in use, Section 207(c) of the Clean Air Amendments empowers the Administrator of EPA to require the manufacturer to submit a plan for remedying the nonconformity. Under such a plan, the manufacturer is required to correct only those vehicles or engines which have been properly maintained and used.

4. The average increase in sticker price due to the emissions-control system of a catalyst-equipped vehicle is estimated to be $160 above a current (1973) vehicle and $230 above a 1970 model year vehicle. Except for the diesel engine, lesser increases are expected for the other emission-control systems, when comparing vehicles of similar size and type.

Model year 1975 vehicles using Wankel engines or catalyst-equipped spark-ignition piston engines will use significantly more fuel than their 1973 counterparts. Carbureted stratified-charge engines will suffer only a slight fuel penalty; and the diesel engine will offer improved fuel economy, enough to compensate for its high initial cost within a few years of driving.

For 1976 model year light-duty motor vehicles, the Committee concludes that—

1. Five control systems now in early stages of development have met the 1976 emission standards at low mileage. These are: the modified conventional engine equipped with dual catalysts, or with dual catalysts plus thermal reactor, or with two thermal reactors and a reduction catalyst, or with a three-way catalyst and electronic fuel injection, and the stratified-charge engine employing fuel injection and equipped with an oxidation catalyst. It is possible, but not certain, that some of these systems may prove to be certifiable for 1976, contingent upon the acceptance of the same provisos previously mentioned for 1975 model year vehicles.

More importantly, the recently developed carbureted stratified-charge engine, after 50,000 miles of durability testing on a compact car, has achieved well over the 90 percent reduction in hydrocarbon and carbon monoxide emissions called for in the Act and about 83 percent reduction in NO_x. The Committee believes that this engine will be certifiable for 1976, at least in smaller engine sizes.

2. If certifiable, vehicles incorporating any of these systems can be mass-produced, but not necessarily in great enough volume to satisfy, in aggregate, the expected demand for vehicles in model year 1976.

3. The Committee holds the same concerns for performance of 1976 vehicles in use as discussed above for 1975 systems.

4. The average increase in sticker price of a dual-catalyst-equipped vehicle is expected to be $290 above a current (1973) vehicle, and $370 above a 1970 model year vehicle. Average annual costs of a dual-catalyst emissions-control system, including maintenance and fuel, with the increase in sticker price amortized over five years, is estimated to be $260 per year, compared with a 1970 model year vehicle. In contrast, the annualized costs for several other systems are estimated to be less than $100.

The Committee is greatly concerned about the trend of development of the 1976 control systems. The system most likely to be available in 1976 in the greatest numbers—the dual-catalyst system—is the most disadvantageous with respect to first cost, fuel economy, maintainability, and durability. On the other hand, the most promising system—the carbureted stratified-charge engine—which may not be available in very large numbers in 1976, is superior in all these categories. The Committee wishes to alert both EPA and the Congress to this development and believes that it warrants immediate attention.

INTRODUCTION

The Clean Air Amendments of 1970, which established exhaust emission standards for 1975 and 1976 light-duty vehicles (henceforth called vehicles) and light-duty vehicle engines, called on the Administrator of the Environmental Protection Agency (EPA) "to enter into appropriate arrangements with the National Academy of Sciences (NAS) to conduct a comprehensive study and investigation of the technological feasibility of meeting the emission standards" promulgated by the Clean Air Amendments. Meetings held between the NAS and EPA early in 1971 resulted in the establishment of a mutually agreeable work statement for the Committee on Motor Vehicle Emissions of the National Academy of Sciences. An extract from the work statement follows:

Statement of work

A. The Contractor shall conduct a many-faceted study of the technological feasibility of meeting the motor vehicle emission standards prescribed by the Administrator of the Environmental Protection Agency, as required by Section 202(b) of the Clean Air Act, as amended.

B. For the purposes of this study the term "technological feasibility" includes the ability within the automobile industry or elsewhere to

1. Design an engine, control system, or device capable of meeting the stautory emission standards using fuels which are or could be available

2. Mass produce such an engine, control system, or device

3. Maintain such an engine, control system, or device so that it will continue to meet the statutory emission standards with safety for a period of five years or 50,000 miles of operation, whichever is shorter.

C. The study of technological feasibility as defined shall include a study emphasizing technical aspects of the reported costs expected to be incurred in and the estimated time for the design, development, and mass production of an engine, control system, or device capable of meeting the statutory emission standards.

D. The study of technological feasibility shall include a study emphasizing the technical aspects of the reported estimates of extra cost incurred in maintaining such an engine, control system, or device so that it will meet the statutory emission standards for a period of five years or 50,000 miles, whichever is shorter.

E. Should the Contractor conclude that the attainment of emission standards on the schedule provided by Section 202(b)(1) of the Clean Air Act is not technologically feasible, the Contractor shall specifically determine technologically feasible interim emission levels to assist the Administrator in exercising his responsibilities under Section 202(b)(5) of the Act.

Past work of the Committee on Motor Vehicle Emissions

Membership of the Committee, shown in Appendix A, was selected entirely by the National Academy of Sciences.

The first meeting of the Committee took place on June 16, 1971, with subsequent meetings held approximately once each month. The Clean Air Amendments called for the Committee to submit semiannual progress reports to the Administrator and to Congress. One of the primary functions of such reports was to provide advice to the Administrator of EPA wtih respect to his decision whether or not to postpone for one year the applicable deadlines of the standards called for by the Clean Air Amendments. Under the legislation, anytime after January 1, 1972, any manufacturer may file with the Administrator an application requesting a one year suspension of the regulations applicable to emissions from 1975 model year vehicles. Anytime after January 1, 1973, any manufacturer may file an application requesting a one year suspension of the regulations applicable to emissions from 1976 model year vehicles. The Administrator must make his determination of each request for suspension within 60 days.

To provide maximum assistance to the Administrator in the formulation of his decision, and with due consideration of the timing required for such a decision, the Committee issued its first substantive report on January 1, 1972, containing a comprehensive study of the technological feasibility of the standards applicable to 1975 model year vehicles. In April 1972, in response to a direct request from EPA, the Committee prepared a report with respect to possible interim standards, in the event the Administrator were to grant a suspension of the 1975 standards. A brief progress report was submitted July 1, 1972, discussing the various areas of investigation of the Committee at that time.

This report of the Committee emphasizes the question of technological feasibility of the 1976 standards. In August 1972, the Administrator denied the requests of Volvo, International Harvester, Chrysler, Ford, and General Motors for a suspenion of the 1975 standards. Requests for suspension of the 1975 standards may, however, be filed again by the above manufacturers or by others. A portion of this report is thus addressed to the technological feasibility of the 1975 standards.

Panels of consultants

The Committee has recognized the importance of having available to it the most recent and complete technical data and information upon which to make its judgments. Much of the information has been provided by eight panels of consultants, each panels were in operation during 1971. The of importance in the Committee deliberations. Panel members were selected by the Committee on the basis of recognized competence in specific areas. Membership of the panels is shown in Appendix B. Seven of these panesl were in operation during 1971. The Catalyst Panel was added early in 1972 after the Committee became aware of the many controversial and critical factors associated with the operational characteristics of the automotive catalyst. The work of each of the panels was as follows.

Testing, Inspection, and Maintenance

The Panel on Testing, Inspection, and Maintenance was organized to assess the feasibility of ensuring that automobiles manufactured for 1975–1976 model years continue to meet the specified emission standards in actual customer use over the required period. The panel evaluated each method as a system, from certification testing through assemblyline control, surveillance, inspection, and maintenance in use. This study also considered the necessary training and licensing of mechanics, enforcement action required, short emission tests suitable for inspection or diagnosis, surveillance testing, feasibility of required maintenance procedures, and costs of maintaining emission-control systems for 1975–1976 vehicles.

Emission-Control Systems

The Panel on Emission-Control Systems was to investigate the potential of experimental 1975–1976 emission-control systems, including consideration of the durability of

these systems. The activities of this panel were restricted to studies of emission control for the spark-ignition internal-combustion engine including the Wankel and stratified charge types of engines. The use of different fuels, such as liquified petroleum gas (LPG), as well as dual-fuel concepts were also evaluated.

Alternate Power Sources

This panel was responsible for evaluating all automobile power source concepts except the conventional Otto-cycle engine, the internal-combustion Wankel engine, and the stratified-charge engine. The panel thus considered diesel engines, Rankine-cycle engines, Brayton-cycle engines, Stirling engines, electric systems, hybrid systems, and several systems that fell into no broad category.

The panel was to determine if it would be possible for any of the candidate engine systems to meet the 1975–1976 emission standards in production and the 50,000-mile (or five-year) life standard. For each promising system, the panel estimated the earliest possible date that mass production could be achieved. Major technical problem areas were identified for each system, and the probability of solving these problems was estimated.

Acceptability of each system, to the customer and to the industry, was predicted by the panel on the basis of driveability, safety, starting characteristics, maintainability, noise, cost, fuel economy, and many other factors. Some of these determinations were made in cooperation with other panels.

Manufacturing and Producibility

This panel was concerned with the manufacturability of low-emission systems and their components. The effort was not limited to the technical possibility of building one or a few systems; the technological feasibility of producing millions of systems in 1975 and 1976 was determined. This study included such considerations as producibility, tooling, lead time, and costs.

The work of this panel was directed toward helping the Committee determine, as specified in paragraph B2 of the Statement of Work, whether, within the automobile industry or elsewhere, there was a capability to mass-produce an engine, control system, or device capable of meeting the emission standards.

Driveability

The mission of this panel was to appraise the driveability of vehicles powered by candidate engine systems. Good driveability is loosely defined as the ability of a vehicle to start, operate, and stop smoothly under all environmental and operating conditions, without stalls, surges, hesitations, afterfiring, and other undesirable characteristics.

There has been considerable testimony expressing opinions that some of the emission-control systems, especially if not properly maintained, would seriously affect the safety of the car, not only relative to its occupants, but also relative to other vehicles in traffic. Thus, assessing driveability is an important aspect of determining the feasibility of using a given system or engine. The work of this panel was done in conjunction with that of the Panel on Emission-Control Systems.

CATALYSTS

The CMVE organized this panel when it became apparent that the durability of many proposed emission-control systems is closely tied to catalyst performance. This panel analyzed activity and durability of both oxidation and reduction catalysts for emission-control systems. The major causes of catalyst failure during vehicle operation were examined. The effect on catalyst deterioration of the level of poisons in gasoline such as lead, sulfur, and phosphorus was studied, as was the effect of over-temperature on catalyst activity. Availability of catalytic materials and possible toxicity problems associated with the use of certain catalysts were also investigated.

Emission Standards and Atmospheric Chemistry

The work of the Panels on Emission Standards and Atmospheric Chemistry was associated with the requirement in the original work statement concerning recommendation by the Academy of technologically feasible interim emission levels.

The major concern was with interim levels for the 1976 standards, in the event that achievement of such standards was to be delayed a year. For the 1976 standards, oxides of nitrogen (NO_x) must be controlled in addition to hydrocarbons (HC) and carbon monoxide (CO); procedures that reduce NO_x do not necessarily reduce HC and CO, and may increase them. There are many sets of technologically feasible levels of the three pollutants that the Committee recommend. Thus, these two panels have been the various possibilities and tradeoffs.

The Panel on Atmospheric Chemistry determined, from the latest available data, the relationship between ambient concentrations of HC and NO_x necessary to cause undesirable levels of oxident production. The Panel on Emission Standards used these data, along with desirable air-quality goals for CO and NO_x, and developed corresponding motor vehicle emission levels.

Each of the panels has devoted considerable time and effort to the work of the Committee. Some of the panel members have given virtually full-time effort to Committee work. These panels have traveled extensively and probed deeply in their attempts to bring before the Committee the material and information needed for the Committee to reach the judgments called for in the legislation. Panel visits have been made to domestic and foreign automobile manufacturers, to domestic and foreign catalyst suppliers, to the EPA and other government laboratories, to independent research laboratories, to state and local agencies concerned with the problems of enforcing emission standards, to those carrying out research and development on many types of alternate power plants, to oil companies, and to many others. A list of companies and individuals visited or otherwise contacted by CMVE personnel is given in Appendix C.

In each visit, panel members have endeavored to ensure the timeliness and validity of the data furnished to them. Panel visits have involved discussions with personnel ranging from top management to working technicians and engineers.

The panels have reported periodically to the parent Committee on their progress. Close contact has been maintained between the panels and the Committee, to ensure that the panels were stressing the necessary topical areas in their investigations. Panel activities terminated with the submission of final written panel reports to the Committee.

Other means of obtaining information

The Committee has attempted to solicit pertinent information from the general public. Announcements have been placed in the Federal Register requesting information with respect to technological feasibility. Descriptions of these announcements are included as Appendix D.

Finally, the Committee as a whole visited General Motors and Ford in Detroit on May 18 and 19, 1972, to get a first-hand view of the efforts of two of the larger manufacturers toward meeting the emission standards. Visits by selected members of the Committee were made to other manufacturers.

The judgments of the Committee to be presented in this report necessarily rely upon the information received using the various sources mentioned above. The Committee believes that it has had presented to it sufficient information upon which to base its judgments.

NOTE

Final reports of the CMVE panels are being prepared as technical publications and will be made available to the public by the National Research Council. Other pertinent information will be maintained as a public record in the files of the CMVE.

(Figures referred to in this text are omitted in the RECORD).

THE STANDARDS, CERTIFICATION AND TESTING

Numerical values of standards

Section 202 of the Clean Air Amendments of 1970 requires the Administrator of the EPA to prescribe emission standards for light-duty motor vehicles together with measurement techniques on which such standards are to be based.* Such standards require that the emissions of carbon monoxide and unburned hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1975 be reduced by at least 90 percent from these required of 1970 vehicles; also, emissions of oxides of nitrogen from light-duty motor vehicles and engines manufactured during or after model year 1976 are to be at least 90 percent below the average of those actually measured from light-duty vehicles manufactured during model year 1971 which are not subject to any federal or state emission standards. The 1975 model year standards are:

0.41 grams per vehicle mile for hydrocarbons (HC).

3.4 grams per vehicle mile for carbon monoxide (CO)

and 3.1 grams per vehicle mile for oxides of nitrogen (NOx).

Standards for 1976 model year vehicles are:

0.41 grams per vehicle mile for hydrocarbons.

3.4 grams per vehicle mile for carbon monoxide.

and 0.4 grams per vehicle mile for oxides of nitrogen.

The Clean Air Amendments call for vehicle compliance with the above standards for five years or 50,000 miles, whichever occurs first.

Procedures for certification, CVS–CH test

The numerical values of the standards must be defined in terms of a specific method of measurement and a specific driving cycle. The EPA Administrator is required by Section 206 to test any motor vehicle or class of motor vehicles to determine whether they meet the standards set forth in Section 202(b) of the Clean Air Amendments. A certificate of conformity is to be issued for classes of motor vehicles that comply with the standards, thus permitting the manufacture and sale of these classes of vehicles. The emissions test to be used for certification of 1975 and 1976 vehicles, referred to as the CVS–CH test, consists of a 12-hour wait at a temperature between 60° and 86° F, a cold-engine startup, a continuous sequence of different driving modes simulating an average trip over a 23-minute route in an urban area, a ten-minute shutdown followed by a hot-engine restart, and a repeat of the first 505 seconds of the 23-minute cycle. This test is performed with the vehicle on a chassis dynamometer. Exhaust-gas sampling begins immediately after the key is turned on (whether the engine starts or not). Diluted exhaust emissions are collected during the first 505 seconds in one bag, those during the remainder of the 23-minute cycle in a second bag, and those from the hot-restart phase in a third bag. Contents of the three bags are then analyzed and weighed in accordance with the EPA test procedure to be the final mass emissions, in grams per mile, of HC, CO, and NO_x.

* The Federal Register of November 15, 1972, contains a complete description of the regulations concerning the standards, test procedures, allowable maintenance, etc.

To obtain a certificate of conformity for a class of vehicles, the automobile manufacturer must also demonstrate the effectiveness of the vehicles' emission-control system over the "useful life" of a vehicle. The regulations require a manufacturer to test two separate fleets of prototype vehicles representing models to be sold to the public. The "emission data" fleet is intended to determine the emissions of relatively new vehicles. The vehicles in this fleet are driven 4,000 miles to break in the engine and stabilize emissions. The emissions are then measured, using the CVS–CH test procedure. Allowable maintenance on emission-data vehicles is limited to the adjustment of engine idle speed at the 4,000-mile test point.

The second fleet, the "durability-data" fleet, is designed to determine the capability of the emission-control system to keep emissions below the standards over the expected useful life of the vehicle. The vehicles in this fleet are driven for 50,000 miles and tested for emissions every 4,000 miles. The procedure for mileage accumulation is the Durability Driving Schedule over a modified AMA route. The maximum speed is 70 mph, and the average is 30 mph. One major engine tuneup to manufacturer's specifications may be performed on durability vehicles at 24,000 miles (on vehicles with 051–CID or less, at 12,000, 24,000, and 36,000 miles). The replacements and adjustments allowed are detailed in the regulations. Emissions tests must be run before and after any vehicle maintenance that may be reasonably expected to affect emissions. As the first step in determining compliance of a new light-duty vehicle, emission-deterioration factors are determined from the durability-data fleet emission test results. Separate factors are determined for HC, CO, and NO_x and for each engine/control-system combination. A straight line is fitted, by the method of least squares, to each of the plots of emissions versus mileage for the endurance fleet. For each of the three pollutants, deterioration factors are determined from these curves as the ratio of emission at 50,000 miles to those at 4,000 miles. The emission test results, at 4,000 miles, for each emission-data fleet vehicle are then multiplied by the appropriate deterioration factor to give adjusted emissions for each vehicle. These adjusted emissions are then compared to the standards. Every test vehicle from an engine family must comply with the standards before any vehicle in that family can be certified.

Production-line testing

To ascertain whether vehicles are being manufactured in accordance with the regulations with respect to which a certificate of conformity was issued, Section 206(b) authorizes EPA to test new vehicles and engines. Such tests can be conducted by EPA or by the manufacturer in accordance with conditions specified by EPA. According to Section 206(b)(2)(A), if:

"Based on tests . . . on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued, he may suspend or revoke such certificate in whole or in part . . ."

The Act sets forth a procedure for reissuance of the certificate and for hearings on its suspension or revocation.

It is impractical to determine the emissions from a large fraction of production vehicles by the CVS-CH procedure. Each test involves a twelve-hour wait at room temperature followed by a 41-minute test, with expensive and complex instrumentation required. In addition, measurements of exhaust emissions show poor repeatability. Data from the autmobile manufacturers and several independent laboratories taken on 1972 model year vehicles using the 1975 Federal CVS-CH test show coefficients of variation of 10 to 20 percent. When the CVS-CH test is applied to 1975–76 prototype vehicles, the probable percentage error increases, since emission levels have decreased from 1972. Only limited data were available of test reproducibility using the CVS-CH test with dual-catalyst-equipped vehicles near the 1976 emission levels. Coefficients of variation for these limited data, consisting of 16 repetitive tests on a vehicle, were as great as 50 percent for CO. Test on three-valve carbureted stratified-charge engines, which meet 1975 standards, have yielded much lower coefficients of variation.

Some of the reasons for the lack of repeatability of measurements are the difficulty of following the speed-time curve specified in the CVS–CH procedure, lack of repeatability of some of the engine functions having an effect on emission control (such as the choke time), and the fact that the 1975–76 pollutant levels give such low concentrations in the sample bags that the resolution capabilities of the instruments are approached. The variation of test results during the cold portion of the test is the largest part of total test variation, with a large percentage of CO and HC emissions occurring during the first two minutes of the CVS–CH test. An individual measurement using the CVS–CH test on a 1975–76 car can vary from the true value by 50 percent and thus little significance should be attached to a single test. Since a hot-start test does not include the emissions that dominate the results obtained with the CVS–CH test, no short hot-start test will pass and fail exactly the same vehicles as the CVS–CH test. It thus is evident that 100 percent production-line testing with any procedure except CVS–CH test (impractical on production line) cannot determine if all vehicles are being manufactured in accordance with the regulations with respect to which a certificate of conformity was issued.

In terms of overall air quality, it is the average emissions from a group of cars that determines the automotive contribution to air pollution. This fact and the variability of test results mentioned above shows a need for regulations that control the manufacture and operation of vehicles to ensure that the emissions on the average meet the standards. It is only necessary to test a quality audit sample of production-line vehicles to demonstrate that the average emissions of production vehicles compare satisfactorily with the certification standard, taking into account a prescribed useful life deterioration factor and a tolerance factor reflecting the difference between production vehicles and pre-production prototypes. The logical test to choose for this quality audit is the CVS–CH procedure.

The Commission recommends, as in the CMVE January 1, 1972 report, that only the emissions of the average of each engine-vehicle combination on the production line be required to meet the standards. A requirement that all vehicles meet the emission standards is too restrictive and is unnecessary to meet air quality needs.

Compliance after sale, warranty

The recommendation covering production-line averaging has an impact on the warranty provisions of the law, contained in Sections 207(a) and (b) of the Clean Air Amendments. Section 207(a) requires that the manufacturer of each new motor vehicle and engine shall warrant to the purchaser that it is (1) designed, built, and equipped so as to conform at the time of sale with (the applicable standards), and (2) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with (the standards) for its "useful life."

Section 207(b) deals with warranties for vehicles throughout their useful life. This section states that manufacturers could ultimately be required to warrant compliance of the emission control system of a vehicle throughout its useful life if it is maintained and operated in accordance with the manufacturer's instructions and if the nonconformity results in the car owner "having to bear any penalty or other sanction . . . under State or Federal law." Before such a useful-life warranty can be imposed however, the Administrator must first determine that there are available testing methods and procedures to ascertain whether a vehicle, when in actual use, complies with the emission standards and that such methods and procedures are reasonably capable of being correlated with tests conducted by EPA preparatory to issuance of a certificate of conformity (meaning the full CVS–CH procedure). These warranty provisions apply to each vehicle. However, if it is concluded that there is no short test or procedure that reasonably correlates with the CVS–CH test, the problem of possible conflict in implementing the warranty requirement is eliminated. After consideration of this point, the Committee concludes that no short test is available now, or likely to be available in the near future, that will pass and fail the same vehicles as the full CVS–CH test.

Section 207(c) of the Clean Air Act deals specifically with recall of vehicles which, although properly maintained, do not conform with the standards. According to Section 207(c)(1), "If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under Section 202, when in actual use throughout their useful life (as determined under Section 202(d)), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given."

Since the purpose of the Clean Air Amendments is to control the automotive contribution to air pollution, the Committee believes that a surveillance audit of a statistical sample of vehicles is adequate to determine if each family of cars meets the standards. The full CVS–CH test would be run for the surveillance audit. Such surveillance tests could be used not only to determine emissions from each car family, but also to evaluate deterioration of emission control systems in actual use, to evaluate the effectiveness of prescribed maintenance procedures, to develop information on failure modes, and to establish the need for recall of a class of vehicles.

POTENTIAL OF SPARK-IGNITION INTERNAL-COMBUSTION ENGINES PASSING EMISSION CERTIFICATION FOR 1975 AND 1976

Introduction

The investigations of the Committee to date have shown that, according to current planning of the automobile manufacturers, the great majority of the engines to be used in 1975–76 model year vehicles will be conventional, reciprocating, spark-ignition engines. A smaller fraction of the 1975–76 vehicles will use Wankel rotary engines, and one manufacturer (Honda) has plans to produce a new type of carbureted stratified-charge engine. Some passenger-car diesel engines will still be produced, but these will differ only slightly from the diesel engines currently available. Diesel engines are discused more fully in Section 6.1.

This section of the report will present an analysis and evaluation of the prospects of spark-ignition engines passing the emissions certification test for 1975 and 1976 model year vehicles.

CURRENT STATUS OF 1975 SYSTEMS

The January 1, 1972, report of the CMVE dealt at considerable length with the technological feasibility of meeting the 1975 standards. At the present time, most automobile manufacturers have developed somewhat similar prototype emission-control systems for their 1975 model year vehicles. The major U.S. and foreign manufacturers are currently assembling and testing fleets of vehicles equipped with the complete system to evaluate different promising catalyst materials and to obtain data on system durability before final production designs are frozen.

These 1975 emission-control systems typically consist of:

(i) An improved carburetor to provide more accurate fuel metering, with compensation for air-density changes, and with an electrically powered choke that comes off quickly at ambient temperatures of about 70° F.

(ii) A quick-heat intake manifold designed to promote rapid fuel evaporation after engine start-up.

(iii) An electronic ignition system to eliminate the wear and other problems of current distributor assemblies and to allow easier spark-timing control. (Inadequate maintenance of present distributors commonly results in increased engine emissions.)

(iv) An exhaust-gas recycle (EGR) line and control valve designed to recycle about 10 percent of the exhaust flow to hold NO_x emissions below 3 grams per mile (g/mile).

(v) An air pump to inject air into the exhaust ports to oxidize carbon monoxide and hydrocarbons.

(vi) A catalytic converter in the exhaust system to promote further oxidation of the HC and CO emissions from the engine.

For some manufacturers, the current fleet tests represent the first extensive evaluation of the complete engine emission controls with the best oxidation catalyst materials now available. Data obtained from some of these manufacturers' fleets are shown in Table 3–1. (Most of the data in Section 3 of this report were received in reply to a questionnaire dated July 13, 1972 or were presented during recent panel visits.) These tests follow the durability driving cycle and maintenance procedures used in the emissions certification of vehicles.

TABLE 3–1.—EMISSIONS PERFORMANCE OF MAJOR MANUFACTURERS 1975 MODEL YEAR DEVELOPMENT FLEETS

Manufacturer	Vehicle weight range, pounds	Engine size range, CID	Number of vehicles	Mileage	Emissions in gms./mile [1]		
					HC	CO	NO
Ford [2]	4,000–5,000	250–460	8	4,000	0.46	3.2	2.7
			7	36,000	.73	5.2	2.2
Ford [3]	4,000–5,000	250–460	6	4,000	.34	3.3	2.2
			5	36,000	.40	2.6	2.4
General Motors [2]	2,750–5,500	140–550	30	4,000	.34	2.3	2.0
			17	12,000	.42	2.6	2.0
			7	24,000	.39	2.2	1.8
Nissan [2]	2,750	98	5	4,000	.29	1.8	1.0
			5	16,000	.50	2.2	.95
			1	24,500	.48	3.8	.95
Toyota [4]	2,500	97	6	4,000	.35	2.9	1.4
			4	12,000	.52	5.5	2.1
			3	24,000	.66	9.0	1.2

[1] 1975 CVS–CH test procedure. Durability driving schedule, maintenance, and fuel used approximate those anticipated in 1975 certification procedure. Emissions averaged over all vehicles tested at that mileage. No catalyst replacements were made during any of these tests.
[2] Emission control system: engine modifications, air pump, oxidation catalyst, EGR.
[3] Emission control system: engine modifications, air pump, 2 oxidation catalysts; EGR.
[4] Emission control system: engine modifications, manifold reactor, air pump, oxidation catalyst, EGR.

Progress in emission control for 1975 systems using catalytic converters has been made since the CMVE report of January 1, 1972. It is highly probable that most manufacturers will be able to produce vehicles that will pass the 1975 certification test procedure, providing allowance is made for one catalyst replacement during the 50,000-mile durability tests, that fuel containing sufficiently low levels of lead and other catalyst poisons is used, and that averaging of emissions within automobile and engine classes is allowed.

Emission-control systems are also being developed that do not use catalysts and therefore have improved durability over the catalytic systems. The three-valve stratified-charge carbureted engine, under development by Honda, has achieved emissions below the 1975 standards at low mileage on compact cars (for details) see Section 3.9.2). Three vehicles equipped with a 2-liter engine (122 CID) have completed 50,000-mile durability testing and met the standards at every test throughout the test period.

The Wankel engine with a thermal reactor has achieved emission levels below the 1975 standards in a compact car. This system has already dmonstrated improved durability over a catalytic system. Data from the few cars tested over extended mileage indicate that deterioration will be relatively low.

Engine emissions for 1976 systems

Introduction

In developing systems to meet the 1975 standards, most automobile manufacturers have emphasized that such systems must be compatible with 1976 requirements. There has thus been a concentration on 1975 control systems that can be modified to achieve the greater NO_x emission control called for in 1976. Additional NO_x control can be achieved by increasing the amount of exhaust-gas recycle, by adding an NO_x-reducing catalytic converter to the exhaust system, or by a combination of both techniques.

To approach the 0.4 g/mile NO_x level with a conventional spark-ignition engine, a combination of both techniques appears to be required. The use of large amounts of EGR (20 percent or more) results in a large fuel-economy penalty, severe driveability problems with attendant safety hazards, and an increase in engine HC and CO emissions. It is not practical at this stage to achieve NO_x-emission levels approaching 0.4 g/mile with EGR alone in a conventional engine.

Without EGR, engine NO_x emissions vary between about 3 and 8 g/mile, depending on the air-fuel ratio, spark timing, engine size, and other details of engine design and operation. In the dual-catalyst system, a separate NO_x-reduction catalyst is added to the exhaust system, between the engine and the oxidation catalyst. In the three-way catalyst system, a single catalytic converter simultaneously reduces the concentration of all three pollutants (HC, CO, and NO_x) in the exhaust stream. Air-fuel ratio must be closely regulated in such system. The NO_x-reduction catalysts currently available, as will be described below, are not able to retain sufficient activity over extended mileage to reduce these engine emissions below the 1976 standards. Thus, unless further improvements in NO_x catalyst durability occur over the next year, only systems for conventional engines with increased EGR and an NO_x-reduction catalyst show any promise of approaching the 0.4 g/mile level. To minimize demands on catalyst size, cost, and durability, there is a continuing emphasis on achieving low and stable engine emissions. Techniques for controlling emissions during the first part of the test when the engine is still cold, fuel-metering requirements, EGR systems, and the potential for improved engine emissions control are examined next.

COLD-START EMISSION CONTROLS

With 1975–76 catalyst-based emission-control systems, a large portion of the carbon monoxide and hydrocarbon emissions occur during the cold-start and engine warm-up phase of the drive schedule in the CVS–CH test. To compensate for the low volatility of cold gasoline, a rich mixture must be provided during cold starts. The excess fuel is not fully burned in the combustion chamber, and the cold engine thus emits high levels of hydrocarbons and carbon monoxide. Because the oxidizing catalyst is inefficient while cold, large amounts of these contaminants are discharged to the atmosphere. Although the NO_x catalyst is also cold and ineffective during start-up, cold-start NO_x emissions tend to be lower because rich mixtures and cold cylinder walls reduce the formation of NO_x.

Because of the high HC and CO emissions during the cold start, considerable development effort has been spent in a number of cold-start controls and procedures. In the prototypes of their 1975 and 1976 systems, most manufacturers have elected to modify the cold-start process. Specifically, they have achieved start-up with leaner air-fuel mixtures by preheating the air and fuel, by improving the mixture control in the carburetor, and by shortening the choking period without seriously impairing cold engine operation and driveability. Most prototypes include air and fuel preheat systems and modified choke operation.

The purpose of preheating air and fuel is to achieve higher volatility with cold fuel, which, in turn, allows leaner engine operation and shorter choking period during warm-up. The air preheat system that has been incorporated in most 1970 and subsequent American-make cars, and has proven reliable, will be used in most 1975–76 models.

In addition to heating the intake air, several proposed emission-control systems promote further evaporation of the fuel by supplying heat to the base of the carburetor. This is accomplished by using a heat exchanger between the carburetor and the exhaust-manifold crossover, causing the fuel droplets to make contact with a hot surface

and to flash into vapor. Several problems remain to be solved to ensure that production units can attain the emission reduction predicted by experimental designs. While durability of the system has not yet been evaluated, there appear to be no major technical difficulties.

A quick-acting choke, employing electrical or mechanical timing devices, will be used to lean out the mixture as early as possible after start-up. For systems incorporating air and mixture preheating, choking times have been reduced from several minutes to less than 30 seconds, while maintaining adequate driveability.

Carburetors

The precise metering of the fuel and air to automotive engines has become much more important in recent years because the mixture ratio is a critical paramater affecting the exhaust composition and the functioning of exhaust-treating devices. Most 1975–76 model carburetors have been redesigned to achieve better air-fuel ratio control and maintain good cold-start performance of the engine.

Except for the demands during extreme accelerations and declerations, the newly designed carburetors are capable of maintaining tolerances of ±3 percent of the set air-fuel ratio. This approaches the fuel-metering accuracy required for the dual-catalyst 1976 control systems in which the air-fuel ratio must be held between about 13.8 and 14.5 to achieve adequate NO_x reduction in the first catalytic converter.

Considerable design work remains to be done to ensure durability with these finely adjusted carburetors. Most manufacturers are considering factory-sealed, tamper-proof settings because it is believed impossible for a typical mechanic to make the required adjustments. The dependability of these factory-set adjustments is unknown.

Electronic Fuel Injection

Several companies are considering Electronic Fuel Injection (EFI) as an alternative to the carburetor. In such systems, an electronic module controls the amount of fuel provided to the engine.

An advantage of electronic control is that, by using appropriate transducers, air-fuel ratio can be compensated for variations in such operating parameters as engine speed, manifold vacuum, ambient conditions, various engine temperatures, exhaust composition, etc. Thus, there is potential for adequate control of mixture ratio over a wide range of operating conditions. EFI systems can respond quickly to changes in operating conditions and are therefore able to provide satisfactory control of air-fuel ratio under transient conditions. However, contacts made with carburetor manufacturers, automobile manufacturers, and producers of electronic fuel injection equipment indicate that current EFI systems do not provide substantial improvement in air-fuel control over the advanced-design carburetors operated under steady conditions.

EFI systems have been and are in production on several European cars. Field experience with these systems initially showed a high component-failure rate, although performance is improving. The advantage of EFI over current carburetors in small cars is in peformance characteristics and fuel economy, i.e.,

Increased power output, particularly for high-rpm high-performance engines

Better fuel economy for high-speed driving

Improved driveability, particularly with manual shift engines

At least one manufacturer is introducing a mechanically controlled fuel-injection system which may show performance comparable with the improved EFI system and at savings in cost.

Exhaust-Gas Recycle (EGR)

The most extensively developed technique for reducing engine NO_x emissions is the recycling of a fraction of the exhaust to the engine intake. The recycled exhaust gases dilute the fresh mixture, thus reducing peak combustion temperatures and NO_x-formation rates. The disadvantages of EGR are the loss in engine power and the reduction in tolerable air-fuel ratio variations consistent with smooth engine operation. The use of EGR requires some mixture enrichment to maintain adequate driveability, which results in a fuel-economy penalty. In most systems, EGR is cut out at wide-open throttle and idle operation.

EGR was introduced in most 1973 model year vehicles to bring NO_x below 3 g/mile. Experience from the durability testing of these EGR systems indicates that plugging of the recycle line and control valve with leaded fuels is a significant problem. But with unleaded fuels, and with regular inspection and cleaning of the system, these problems are not expected to be severe.

As the amount of EGR is increased to reduce NO_x engine emissions below 3 g/mile, there is a need for more precise matching of the recycle flow to fresh mixture flow, and for more uniform mixing of the recycled exhaust in the intake. Engine combustion-chamber redesign with higher turbulence levels to promote more rapid combustion also improves the tolerance of the engines to EGR.

Potential for Engine Emission Reduction

The methods of emission reduction discussed so far have been engine modifications that reduce emissions from the bare engine, i.e., before after-treatment devices such as catalysts and thermal reactors. The first two rows of Table 3–2 give typical engine emissions from a General Motors Corporation 1972 production audit. Both mean emissions and the standard deviation are given. The magnitude of the standard deviation indicates the spread in emissions about the mean value. This spread is due to differences in items such as brake setting, variations in transmissions, engine friction, carburetor settings, and stacking up of engine tolerances. The best GM division has been able to reduce both mean engine emissions and the spread in emissions through improved production control, as indicated in the second row of the table.

With the addition of a quick-heat manifold and an improved carburetor with a quick-acting choke these HC and CO engine emissions can be improved. However, use of EGR to reduce NO_x emissions requires some mixture enrichment to compensate for the decreased flame speed, and engine HC and CO emissions rise. The last two rows in Table 3–2 are estimates of achievable engine emissions goals at low mileage for standard-size engines in standard-size vehicles. The third row corresponds to a lean and the fourth row to a richer carburetor setting. The further reduction of emissions in conventional engines must be achieved with exhaust treatment, such as catalysts or thermal reactors.

TABLE 3—2.—ENGINE EMISSIONS AT LOW MILEAGE: MEAN AND STANDARD DEVIATION

	Emissions in grams/mile [1]					
	HC		CO		NO_x	
	Mean	Standard deviation	Mean	Standard deviation	Mean	Standard deviation
General Motors 1972 production [2] audit	1.7	(0.64)	22	(8.3)	~4	[3] (~1.0)
Best General Motors division 1972 production	1.2	(.32)	16	(6.2)	~4	[3] (~1.0)
Potential [4] best engine emissions, lean carburetion	1.0	(.15)	10	(3.0)		2.5
Potential best [5] engine emissions, rich carburetion	1.5		25			1.5

[1] 1972 VSC-C test procedure.
[2] 3,656 vehicles tested.
[3] California 7-mode test emissions multiplied by 2.
[4] Standard-size engine, standard-size car, with quick heat manifold, improved carburetor, quick acting choke, and EGR.
[5] Same as (4) and with air injection into the exhaust manifold.

Catalysts

The control system for 1976 on which most development effort has been concentrated uses two catalyst beds to clean up the engine emissions before exhaust to the atmosphere. A typical system layout is shown in Figure 3–1. The bed closest to the engine is used to remove NO_x. It is operated under net reducing exhaust-gas conditions (between 1 and 2 percent carbon monoxide in the exhaust gas, corresponding to a slightly rich carburetor calibration). Air is then added to the exhaust stream between the catalyst beds, and the remaining HC and CO emissions are removed in the second catalyst, the oxidation bed. The two catalytic beds may be in separate containers as shown in the figure, or they may be packaged in a single container. The system is a logical development of the 1975 control system described previously.

Because the NO_x catalyst bed must be placed ahead of the oxidation bed, the oxidation catalyst warms up more slowly. Control of HC and CO emissions during start-up would thus be delayed if air were always injected between the catalyst beds. To maintain control over 1976 HC and CO levels, air is diverted to upstream of the NO_x-reduction bed during the engine-warm-up phase. Thus the NO_x bed can act initially as an oxidation catalyst. Once the oxidation catalyst is warmed up, the air is diverted to between the two beds and the first catalyst acts primarily as an NO_x-reduction catalyst. (As an alternative, a "start" catalyst can be used ahead of the NO catalyst and bypassed after the engine is warm.)

The oxidation catalysts used in these dual-catalyst systems are the catalysts now being developed for 1975 model year vehicles. These consist of noble metals (platinum and/or palladium) or base metals promoted with noble metals (a small amount of noble metal required to initiate activity) deposited on both monolithic and pellet substrates. Except for precious metals, there appears to be no problem of supply of raw materials for the active ingredient and the support in the catalysts contemplated. The early state of development of oxidation catalysts was described in the previous Committee report.

Several companies now have products that have demonstrated adequate initial activity, and some of these have reasonable durability.

The NO_x catalysts tested to date include noble metals (platinum, ruthenium, palladium), base metals, or base metals promoted with noble metals, deposited on both monolithic and pelleted ceramic substrates. Nickel-copper and Inconel metallic monolithic NO_x catalysts are also being tested. Reduction catalysts are generally less well developed than oxidation catalysts. Whereas several NO_x catalysts have demonstrated sufficient initial activity, the limited amount of durability data currently available is not encouraging. Several examples of the best low-mileage emission data avilable are shown in Table 3–3.

TABLE 3–3.—EXAMPLES OF BEST LOW MILEAGE EMISSIONS MEASUREMENTS WITH DUAL-CATALYST SYSTEMS ON EXPERIMENTAL 1976 VEHICLES

Company and vehicle weight (pound)	Engine size CID	EGR	Emissions in grams/mile [1] HC	CO	NO_x	Catalyst data (a) HC/CO	(b) NO_x
American Motors	258		0.27	5.7	0.55		
Esso: 4,500	350	No	.09	1.0	.2	Engelhard	Gould GEM.
Volvo:							
3,500	85	Yes	.19	2.2	.4	Base, pellet	Base, pellet.
3,500	85	Yes	.41	3.4	.38	Noble, monolith	Noble, monolith.
General Motors:							
4,500	350	Yes	.24	1.7	.15	UOP, platinum, peliet	Gulf, monol th.
4,500	350	Yes	.42	3.1	.21	Air products, pellet	Gulf, pellet.
4,500	350	Yes	.17	1.0	.19	UOP, platinum, pellet	Johnson-Matthey, monolith.
4,500	350	Yes	.21	1.0	.22	UOP, platinum, pellet	Johnson-Matthey, monolith.
4,500	350	Yes	.37	1.8	.27	UOP, platinum, pellet	GM, pellet.
Chrysler	360	No	.17	3.0	.5		Noble, monolith.
	360	No	.23	2.5	.52		Base.
	360	Yes	.34	3.9	.44		Noble, pellets.
Ford:							
4,000	250	No	.45	2.9	.38	Engelhard, monolith	Promoted base, pellet.
5,000	351	No	.43	2.4	.27	Engelhard, monolith	Gould, GEM.
4,000	250	No	.52	3.7	.39	Engelhard, monolith	ICI, pellet.
5,000	351	Yes	.48	3.3	.39	Engelhard, monolith	ICI, pellet.
Daimler-Benz	350	Yes	.20	1.4	.33	Chemico, base, pellet	Chemico, base, pellet.
		Yes	0.15	1.2	.3	Noble, monolith	Noble, monolith.
Nissan: 2,750		Yes	.1—	.4—			
	98		.2	1.2	.3		Johnson-Matthey, Noble, monolith.
Johnson-Matthey Ricardo: 2,700	110	No	.17	1.8	.25	Johnson-Matthey, Noble, monolith.	Do.
Volkswagen:							
2,500	98–104	Yes [2]	.38	2.2	.64	Monolith, Noble	Monolith, Noble.
2,500	98–104	Yes [2]	.49	4.9	.46	do	Do.
2,500	98-104	Yes	.82	4.0	.57	do	Do.
Toyota:							
2,500	97	Yes [2]	.39	2.7	.5	Palladium, pellet	American Oil, base, pellet.
2,500	97	Yes [2]	.29	3.0	.54	do	Do.
2,500	97	Yes	.39	3.7	.39	do	Toyota, platinum, pellet.

[1] 1975 CVS–CH test procedure. Data usually averages of several tests.

[2] Emission-control systems include a manifold thermal reactor before the NO_x-reduction catalyst.

Only a few 1976 experimental vehicles have been tested to evaluate NO_x catalyst durability. Before attempting extensive durability tests, most manufacturers are working to optimize the performance of the system to reduce low-mileage emissions to values at least 50–60 percent below the 1976 standards levels, to improve vehicle driveability, and to hold performance losses to a minimum. Since NO_x-catalyst durability is substantially inferior to that of the best oxidation catalysts, a production goal of .25 g/mile does not seem unreasonably stringent.

The results of the most promising durability tests of some dual-catalyst vehicles are summarized in Table 3–4. Emissions are shown as a function of mileage. Where engine-emissions data are available, the average catalyst-conversion efficiencies over the entire CVS–CH driving cycle can be estimated and are shown in the table. Conversion efficiency is the percentage of entering emissions removed in the converter. These data show that the initial high conversion efficiency rapidly deteriorates.

The causes of this rapid deterioration in NO_x-catalyst efficiency are not yet quantitatively understood. Catalysts have a long history of success in the petroleum and chemical industries; the major processes in these industries employ steady-state conditions of temperature, pressure, and flow rate of gases, with careful exclusion of poisons. Many automobile catalysts developed today would work similarly well and probably last 50,000 miles if they could work within narrowly defined operating ranges (or "windows") in each of four variables: temperature, gas competition, gas flow, and poison concentrations. Catalysts can tolerate occasional excursions from these windows, but prolonged excursions invariably lead to slow chronic aging or quick massive failures.

In actual practice, an automobile is always in a transient condition: the catalyst is too cold during start-up and too hot during a long down-hill cruise; the air-fuel ratio is too rich on idle and too lean during high speed; the exhaust-gas flow is slow during idle and fast during upgrade cruise. The catalysts are also exposed to repeated cycles of heating and cooling, evaporation and condensation of water, pulsating flow from exhaust gases, vigorous shaking on the road, and a variety of poisons including lead and sulfur. Under these excursions from the windows, catalysts deteriorate rapidly.

TABLE 3–4.—EMISSIONS AS FUNCTION OF MILEAGE FOR DURABILITY TESTS ON DUAL-CATALYST SYSTEMS

Manufacturer, vehicle [1]	Catalysts (a) HC/CO; (b) NO_x	Mileage	Emissions, g/mile [2] HC	CO	NO_x	NO_x catalyst efficiency [3] (percent)
GENERAL MOTORS						
(1) 4,500 pounds 350 CID Chevrolet, EGR	(a) UOP, noble, pellet.	0			0.22	[4] 78
	(b) Gulf, noble, pellet.	1,000	0.32	1.7	.42	[4] 58
		7,000	.39	3.0	.45	[4] 55
		13,000	.52	4.8	.73	[4] 27
(2) 4,500 pounds 350 CID Chevrolet, EGR	(a) UOP, noble, pellet.	0	.21	1.0	.21	[4] 79
	(b) Johnson-Matthey, noble, monolith.	7,000	.47	1.8	.59	[4] 41
(3) 4,500 pounds 350 CID Chevrolet, EGR	(a) UOP, noble pellet. General Motors Research, pellet.	0	.36	1.8	.28	[4] 72
		4,000	.57	4.1	.51	[4] 49
FORD						
(1) 5,000 pounds 351 CID Ford, EGR	(a) Engelhard, monolith.	Low	.3	1.5	.56	78
	(b) Monolith.	3,000	.33	1.5	.49	80
		6,000	.48	2.6	.70	71
		9,000	.72	1.9	.89	63
	8–10 grams of platinum, [5] dual-bed converter	12,000	.66	3.6	.75	64
		16,000	.66	5.4	1.3	46
		20,000	.82	3.8	1.5	37
(2) 5,000 pounds 351 CID Ford, EGR	(a) Pellet.	Low	.35	3.8	.68	70
	(b) Pellet.	1,000	.61	3.3	.99	
		2,000	.59	3.6	1.25	
	Dual-bed converter.	6,000	.68	4.2	[4] 1.72	25

TABLE 3-4.—EMISSIONS AS FUNCTION OF MILEAGE FOR DURABILITY TESTS ON DUAL-CATALYST SYSTEMS—Continued

Manufacturer, vehicle [1]	Catalysts (a) HC/CO; (b) NO_x	Mileage	Emissions, g/mile [2] HC	CO	NO_x	NO_x catalyst efficiency [3] (percent)
(3) 4,000 pounds 250 CID Ford, no EGR	(a)	Low	.52	3.7	.39	89
	(b) ICI, pellet	4,000	.65	5.2	.48	86
NISSAN						
(1) 2,750 pounds 98 CID, EGR	(a) Noble, pellet	0	.19	.5	.28	70
	(b) Johnson-Matthey noble, monolith	3,000	.32	1.1	.7	37
		7,300	.34	1.7	1.1	6
		13,900	.67	2.7	1.1	
(2) 2,750 pounds 98 CID, EGR	(a) Noble, pellet	0	.1	.4	.3	84
	(b) Johnson-Matthey noble, monolith	5,200	.33	2.2	1.3	30
(3) 2,750 pounds 98 CID, EGR	(a) Noble, pellet	0	.17	1.2	.27	67
	(b) Johnson-Matthey noble, monolith	3,100	.38	1.8	.5	38
TOYOTA						
(1) 2,500 pounds 97 CID Reactor, EGR	(a) Palladium, pellet	0	.39	2.7	.5	----------
		[7] 12,000	.46	2.8	.82	----------
	(b) American Oil, base, pellet	[7] 20,000	.50	3.1	.93	----------
(2) 2,500 pounds 97 CID Reactor, EGR	(a) Palladium, pellet	0	.29	3.0	.54	----------
	(b) American Oil, base, pellet	[7] 12,000	.49	3.5	.81	----------
		[7] 28,000	.52	5.7	1.5	----------
(3) 2,500 pounds 97 CID Reactor, EGR	(a) Palladium, pellet	0	.39	3.7	.39	----------
	(b) Toyota, platinum, pellet	4,000	.45	4.2	.51	----------
		8,000	.40	4.3	.94	----------
		12,000	.59	4.4	1.09	----------
		16,000	.31	4.3	.38	----------

[1] Emission control system includes engine modifications, air pump, NO_x catalytic converter, oxidation catalytic converter, and EGR and manifold reactor where noted.
[2] 1975 CVS-CH test procedure.
[3] NO_x catalyst efficiency is percent NO_x removed in catalytic converter.
[4] NO_x catalyst efficiency estimated from approximate engine NO_x emission of 1 gram/mile.
[5] Catalyst judged by vendor not to be available in commercial quantities.
[6] EGR system failure.
[7] Emissions at these mileages measured after maintenance.

The rate of the deterioration due to inadequate control of air-fuel ratio in the engine and the temperature fluctuation in the catalyst bed has not been quantified. Thermal degradation of the catalyst can occur due to damage to the surface structure caused by overheating. The presence of an oxidizing atmosphere even for short periods of time when the catalyst is hot is known to be detrimental, especially to the nickel-copper alloy metallic catalysts. The loss of catalytic material both from noble metal and base metal NO_x catalysts has also been observed to occur, probably due to oxidation.

It is clear that poisoning of the active catalyst material by contaminants in the fuel is the cause of some deterioration. During the last two years, it has become evident that the oxidation catalysts being tested in 1975 prototype vehicles deteriorate as a consequence of the trace quantities of lead, phosphorus, and other elements in lead-free fuels and lubricants. It is anticipated that, as a result of EPA regulations*, the lead-free fuel available in 1975 and 1976 will have average contaminant levels of about 0.03 grams/gallon lead, less than 0.005 grams/gallon phosphorus, and about 0.04 percent sulfur by weight. It is not known how severely these contaminant levels will affect the activity of the different NO_x catalysts now being evaluated. Laboratory tests on a noble metal NO_x catalyst which contained platinum and other metals showed lead poisoning of magnitude comparable to that observed with platinum oxidation catalysts. Sulfur also affected the activity of this NO_x catalyst at levels of 0.04 percent by weight or more. However, a ruthenium NO_x catalyst appeared in bench tests to be much more resistant to lead poisoning. There are NOx catalysts of both noble metal and copper-nickel that are remarkably resistant to lead levels up to 0.5 gram/gallon. NO_x catalysts may have the ability to partially recover from sulfur poisoning if operated in an oxidizing atmosphere at high temperatures.

The ability to control air-fuel ratio within narrow limits with dual-catalyst systems is critical. It is well known that, under certain operating conditions, nitric oxide, NO, is reduced in the NO_x-catalyst bed to ammonia, most of which is then oxidized back to NO in the oxidation catalyst. Ammonia formation increases with carbon monoxide level in exhaust mixtures. Thus, whereas the air-fuel mixture must be slightly fuel-rich to provide net reducing conditions at the NO_x-catalyst bed, too great a CO level leads to excess ammonia formation and results in increased concentrations of NO in the exhaust. It appears that the air-fuel ratio must be controlled to give about 1 to 2 percent CO in the exhaust, corresponding to an air-fuel ratio of 13.8 to 14.5.

Progress is being made in the development of NO_x catalysts for automotive use. However, to retain its effectiveness, it is necessary that the catalyst be integrated into the engine-emission-control system to protect the catalyst from long excursions from its operating windows. Unfortunately, coordination of research by the automobile manufacturers and catalyst suppliers is far from ideal. The composition of the catalyst supplied to the auto manufacturer for testing is proprietary to the catalyst supplier; when failures occur during durability testing, the catalyst must be returned to the catalyst supplier for further analysis. 50,000-mile durability testing requires three to four months, 25,000-mile testing takes six to eight weeks. The process is a slow one. Many months may elapse from the time a catalyst is supplied to the time data may be available that could lead to an improved catalyst composition.

Three-Way Catalysts

Several catalyst manufacturers are developing single-bed catalysts that, under carefully controlled operating conditions, will simultaneously promote oxidation of HC and CO and reduction of NO_x.

Successful operation of such a three-way catalyst has been found to occur in a narrow window of air-fuel ratio, slightly on the rich side of stoichiometry.** The width of this window has been found to be only ±.1 air-fuel ratio, thus requiring an overall control of air-fuel ratio to within the than ±1 percent. Lean-side deviations from this window result in a drastic loss of NO_x conversions; richside deviations lead to considerable loss of HC and CO oxidation efficiencies and increased ammonia formation. The difficulties of maintaining such a close control of air-fuel ratio during all the transient conditions that occur during typical operation of an automobile have been cited in Section 3.4.

If a three-way catalyst could be successfully incorporated into a vehicle and proved to possess adequate durability a simpler system than the dual-catalyst system would result. Since there is enough oxygen present in the exhaust gas, the air pump would no longer be required. One catalyst bed would be eliminated, and the difficulties of heating up the catalyst beds rapidly to control cold start emissions would be simplified. Vehicle driveability is known to be good with a stoichiometric air-fuel mixture, and the fuel economy for a given engine would be reasonably close to optimum.

Feedback Control for Air-Fuel Ratio

The need for more close control of exhaust-gas composition both in the dual-catalyst and the 3-way catalyst system has led to the investigation of methods of achieving more precise fuel and air metering. A method that has met with some success and is under development in several European and American companies is a feedback, or closed-loop, system of fuel metering. In such a system, an oxygen sensor is used to detect the level of oxygen in the exhaust stream and to supply an error feedback signal either to an electronic fuel-injection (EFI) control module or to a specially constructed carburetor. This signal causes adjustments in the fuel or air supply, thereby maintaining close control of air-fuel ratio. Unfortunately, these oxygen sensors function only when hot and are thus ineffective in controlling cold-start emissions.

Because the oxygen sensor is an electrical transducer, it is particularly well suited for adaptation to the electronic circuitry of the EFI control module. Also, fuel-injection systems provide quicker response to error signals than do carburetors. The EFI system or carburetor used must be able to control air-fuel ratio to within ±5 percent of stoichimetry without feedback; the sensor feedback system at present has limited control authority so that it cannot correct for deviations outside this range. Current EFI systems and advanced carburetors can achieve this degree of air-fuel ratio control during steady-state operation, but deviate significantly outside the ±5 percent range during transient vehicle operation such as acceleration and deceleration. To obtain full benefit from the senor-feedback system, improvements in the

*In a proposed rule-making, EPA has recommended maximum contaminant levels of 0.05 grams/gallon lead and 0.01 grams/gallon phosphorus. It is assumed that average contaminant levels will be about half the maximum levels.

**The stoichiometric air-fuel ratio is the theoretical ratio for complete combustion.

performance of the basic EFI or carburetor will be required.

The sensor is expected to be inexpensive and a life of about 12,000 miles is the development target. The sensor could then be exchanged as a spark plug.

The durability of oxygen sensors now available is inadequate, and their life in a vehicle is only a few hours. The major problems are thermal shock, erosion of the electrodes, and maintaining good electrical contacts with the sensor. In addition, bench tests have shown that the sensor can be poisoned by lead, sulfur, phosphorus, and other impurities. Considerable development will therefore be required before the sensor and feedback system is ready for mass production.

If the durability and poisoning problems are solved, the oxygen sensor could make an important contribution to lowering emission levels and improve durability of the catalysts in the exhaust system by avoiding large variations in exhaust composition and temperature during operation of the engine.

Developments on feedback systems have been proceeding most intensively in Europe, where the performance gains of fuel-injection systems on smaller, higher-speed engines are more significant. Test results on six different European vehicles are summarized in Table 3–5. Also shown are data from Bendix, also with a compact car. These results are at low mileage; durability data are not yet available.

The sensor-feedback concept also can be used to control air-fuel ratio, and thus exhaust-gas composition, with the dual-catalyst emission-control system. This system is more complex than the three-way catalyst approach since an air pump is required to supply secondary air upstream of the oxidation catalyst, and air must be diverted to upstream of the NO_x-reduction catalyst during the cold-start portion of the test. Again, the elimination of exhaust-gas composition excursions outside the desirable operating window of the catalysts would be expected to improve catalyst life, and there is a better chance to develop separate oxidation and reduction catalysts by a given time than to find a three-way catalyst adequate to the job.

TABLE 3–5.—LOW-MILEAGE EMISSIONS FROM COMPACT AND EUROPEAN VEHICLES EQUIPPED WITH 3-WAY CATALYST SYSTEM

	Emissions in grams/mile		
	HC	CO	NO_x
6 Volkswagen vehicles with Bosch EFI and O_2 sensor; 5 percent EGR, and noble metal monolithic 3-way catalysts:			
60-test average	0.15	2.2	0.21
Range	0.1–.25	1.1–3.3	0.1–.35
Bendix tests on 2,500-lb. vehicle, 150–CID 4-cylinder engine, EFI and O_2 sensor, 8 percent EGR:			
6-test average	.24	2.8	.35
Range	.18–.30	2.1–3.2	.31–.37

Several parallel developments are necessary to make the oxygen-sensor feedback-control catalyst system more than a promising concept. First, the oxygen sensor must be shown to be durable in the exhaust environment of an operating vehicle with commercially available lead-free fuels. Second, the EFI system or carburetor must be improved to provide control of air-fuel ratio to within ±5 percent of stoichiometric for all engine operating modes, or the effective range of the feedback system must be extended. Finally, either the durability of the catalyst in the three-way system must be demonstrated, or a durable NO_x-reduction catalyst must be developed for the dual-catalyst system. The effects of fuel contaminants and temperature fluctuations on the catalyst activity and size of the required air-fuel ratio operating window are unknown at this time.

Thermal Reactors

A substantial amount of work has been done on emission-control systems that incorporate a thermal reactor, a chamber in which HC and CO emissions are burned after leaving the engine. Typically the reactor is bolted to the cylinder head in place of the normal exhaust manifold, although some systems employ thermal reactors further back in the exhaust system. Some systems combine a thermal reactor with catalysts; some use a thermal reactor alone.

There have been two basic versions of systems using a thermal reactor only: fuel-rich and fuel-lean systems. The fuel-rich system results in less NO_x formation, but only at the expense of substantially poorer fuel economy. The lean system does not require air injection, so it has the advantage of being simpler. Fuel-rich reactor cars typically operate in the range of air-fuel ratios from 11:1 to 13.1, while lean reactor cars operate at air-fuel ratios of 17 to 19:1, depending upon the degree of exhaust-gas recirculation. These ranges of operation result in acceptable but not always good driveability.

A major difficulty in thermal-reactor systems has been achieving high enough gas temperature inside the reactor to burn up the engine HC and CO emissions. In the rich-reactor approach, the chemical energy in the exhaust is used to obtain core gas temperatures of up to 1800°F. Rich reactor systems achieve better emissions control than lean reactor systems, but have a much higher fuel-economy penalty and have more severe durability problems because of the higher temperatures.

Systems that combine one or more thermal reactors with catalytic converters are also being developed. In most of these systems, the thermal reactor bolted to the cylinder head is used to achieve partial burn-up of the engine HC and CO emissions to reduce the load on the oxidation catalyst downstream.

General Motors is developing a reactor-catalyst combination called a triple-mode system. The aim of the system is to avoid damaging the NO_x and oxidation catalyst beds by overheating during engine operation at high load. At about 55 mph vehicle speed, the dual-catalyst system is bypassed through a thermal reactor. HC, CO, and NO_x emissions from the vehicle are all higher during the bypass mode. At lower speeds, the bypass is sealed with a valve. This system has met the 1976 standards at low mileage; its durability has yet to be established. The system is more complicated than the dual-catalyst system; the development of an effective valve is a formidable problem since the bypass must be sealed tight when not in use; and the emissions at high vehicle speed are higher than values obtained with the dual-catalyst system alone. The claimed, but yet to be demonstrated, advantage is that catalyst life would be extended by the elimination of prolonged high-temperature catalyst operation.

Another reactor-plus-catalyst approach is being developed by Questor. Their system consists of a small-volume thermal reactor bolted onto the cylinder head, in which partial oxidation of engine HC and CO emissions occurs, followed by an Inconel 601 screen NO_x-reduction catalyst, followed by a final oxidizing thermal reactor. Air is injected into the exhaust ports and downstream of the NO_x catalyst. The engine is operated fuel-rich, so there is a fuel economy penalty relative to the 1971 production test vehicle of 25 percent in stop-and-go driving. Low-mileage emissions are below the 1976 standards, and some durability has been demonstrated. Mileage accumulation is being done with highly leaded fuels, and lead poisoning of the catalyst appears not to be a problem. Catalyst overheating is controlled by water injection.

Wankel Engine

The Wankel rotary engine is being developed by some manufacturers because it offers the potential of being a small, smooth-running, lightweight, relatively inexpensive power plant. Fuel economy of the bare engine is generally poorer than that of a piston engine of comparable power, and there have been durability problems, but development is continuing.

At the present state of development, emissions from an uncontrolled Wankel engine compare with those of an uncontrolled piston engine of equivalent power approximately as follows: hydrocarbons 2–5 times higher, carbon monoxide 1–3 times higher, and oxides of nitrogen 25–75 percent lower.

The effect of EGR on emissions from a Wankel engine without a catalyst or thermal reactor is shown in Table 3–6. With penalties in fuel economy and driveability, EGR can be quite effective in reducing NO_x emissions. However, HC and CO emissions are high, and these can be reduced to approach the 1975/76 standards only by using external emission-control devices. The small engine size provides an advantage in packaging these devices.

TABLE 3–6.—EFFECT OF EGR ON WANKEL BARE ENGINE NO_x EMISSIONS [1]

Condition	Emissions in grams/mile [2]			
	HC	CO	NO_x	Driveability
Baseline engine	19	50	2.5	Production.
Driveability limited EGR	19	50	1.4	Poor.
Richer carburetor setting plus EGR	20	65	.75	Acceptable.
Leaner carburetor improved induction system, EGR	19	55	.3	Acceptable.

[1] General Motors data at low mileage, 2,750 pound car.
[2] 1975 CVS–CH test procedure.

With its inherently high exhaust temperatures and its exhaust ports all adjacent, the Wankel engine is particularly well suited to emission control by a thermal reactor. Current production rotary engines on compact cars operated with rich carburetor settings and thermal reactors have been developed to meet the 1975 standards with NO_x levels of about 1 gram per mile. However, the fuel-economy penalty compared with a current equivalent piston engine is about 30 percent. The use of EGR and richer carburetion with the thermal reactor reduces NOx-emission levels, but not yet to 0.4 grams per mile with adequate driveability. The fuel-economy penalty increases by a further 5 percent. Table 3–7 lists the best emission levels obtained with thermal-reactor Wankel-engine systems. Several of these cars have met the levels of the 1975 standards, and one has nearly met the 1976 levels.

Toyo Kogyo has demonstrated durability of the rich thermal-reactor system by testing one car successfully to 50,000 miles, and with another still under test at 28,000 miles. The emissions from these cars have remained below the 1975 standards, and work to achieve the 1976 NOx requirement is continuing.

The best results achieved with oxidation catalysts and rotary engines are shown in Table 3–8. Levels approaching the 1975 standards of HC and CO have been achieved at low mileage with a compact car.

Other control approaches with the Wankel engine have been less extensively developed. At leaner carburetor settings, oxidation cata-

lysts have been shown to reduce HC emissions at low mileage in a compact car to levels about 50 percent above the 1976 standards, and CO to well below the standard. However, the durability of the rotary-engine systems with catalysts has not been evaluated. EGR has been shown to reduce NOx levels below 0.4 grams per mile, but engine HC and CO emissions were comparable to uncontrolled piston-engine levels.

Stratified-Charge Engines

Stratified-charge spark-ignition engines are being developed to remove some of the performance and emissions limitations of conventional spark-ignition engines by controlling the air-fuel mixing and combustion process occurring inside the engine cylinder. The basic concept is not new and was first suggested in the early 1920's. Two stratified-charge engine types have been developed to the multi-cylinder engine stage.

TABLE 3-7.—BEST EMISSIONS RESULTS, THERMAL REACTOR AND WANKEL ENGINE 2,750-LB., COMPACT CAR

Manufacturer and system [1]	Mileage	Number of tests	Emissions in grams/mile [2] HC	CO	NO_x	Fuel penalty, [3] percent
Toyo Kogyo:						
Reactor	4,000	[4]	0.32	3.1	0.83	6.5
	50,000	3	.36	2.6	.87	
Reactor plus EGR	[5]	8	.35	2.2	.49	21.0
General Motors:						
Reactor	[5]	72	.60	5.0	.60	
Best effort	[5]	1	.43	2.8	.44	

[1] All these systems are carbureted fuel rich (about 12:1).
[2] 1975 CVS-CH test procedure.
[3] Relative to 1973 production rotary engine car.
[4] Many.
[5] Low.

TABLE 3-8.—EMISSIONS AT LOW MILEAGE, ROTARY ENGINE WITH OXIDATION CATALYST [1]

System	Number of tests	Emissions grams/mile [2] HC	CO	NO_x
Oxidation catalyst and air pump	22	0.7	0.4	1.2
Best effort	1	.4	.2	1.0

[1] General Motors data, 2,750-lb. car.
[2] 1975 CVS-CH test procedure.

Fuel-Injected Stratified-Charge Engines

This stratified-charge engine concept employs a combination of air inlet port swirl and high-pressure timed combustion-chamber fuel injection to achieve a local fuel-rich ignitable mixture near the point of ignition while the overall air-fuel ratio supplied to the engine is fuel-lean for most operating conditions.

Research and development on this concept, the open-chamber stratified-charge engine, has been sponsored by the U.S. Army Tank and Automotive Command (TACOM) for a number of years. This work has involved development and testing of two engine designs, one based on the Ford Programmed Combustion Process (PROCO) and the other based on the Texaco Combustion Process (TCP). The present TACOM vehicles employ exhaust-gas recirculation for NO_x control and oxidizing catalysts for control of carbon monoxide and particularly unburned hydrocarbons. As a consequence, the usual problems with oxidizing catalyst durability have been experienced. These engines are four-cylinder engines nominally rated at 70 horsepower for the military jeep.

Military vehicles equipped with four-cylinder L-141 engines modified by both Ford and Texaco are currently undergoing emissions durability tests. Emissions levels for these vehicles, which are equipped with oxidizing catalysts and exhaust-gas recirculation, are presented in Table 3-9 for the Ford and Texaco vehicles. Results indicate that with low vehicle mileage these systems are capable of meeting the 1976 federal emissions standards. Durability results are also presented. The most important conclusion from the durability tests is that the basic combustion process is stable. Difficulties with plugging of EGR systems with particulates were experienced during this mileage accumulation. The Ford engine required two catalyst changes and frequent maintenance. The Texaco engine used three oxidation catalysts in series to achieve the required HC and CO emission control. These engines are still in the research stage and are not production prototypes. Durability tests with these vehicles are continuing at the present time. In addition to work performed under contract to TACOM, Ford has conducted experiments involving this type of engine in passenger cars. Both four-cylinder and eight-cylinder engine conversions have been used. In addition, stratified-charge engine installations have been made on two commercial-type vehicles. It is evident from Table 3-10 that several of the vehicles under test in this program are capable of meeting the 1976 federal emission standards at low vehicle mileage.

One of the advantages of the stratified-charge engine is excellent fuel economy relative to conventional engines, particularly when emissions controls are applied. The original version of the stratified-charge L-141 engine developed for optimum fuel economy showed a 30 percent fuel economy gain over the conventional carbureted engine. However, as in a conventional engine, when EGR is used to reduce NO_x emissions, the fuel economy is reduced. With NO_x emissions at 0.33 grams per mile, the emissions-controlled stratified-charge engine fuel economy is comparable to that of the original L-141 conventional engine. With less EGR, at 0.7 grams per mile NO_x, about a 10 percent fuel economy gain is obtained.

TABLE 3-9.—EMISSIONS FROM MILITARY JEEP WITH STRATIFIED-CHARGE ENGINE [1]

Engine	Mileage	Emissions grams/mile [2] HC	CO	NO_x
L-141 Ford, PROCO	[3]	0.37	0.93	0.33
	[4] 17,123	.64	.46	.38
L-141 Texaco, TCP [5]	[3]	.37	.23	.31
	10,000	.77	1.90	.38

[1] Emission controls include oxidation catalyst, EGR, throttling at light load.
[2] 1975 CVS-CH test procedure.
[3] Low.
[4] Vehicle required 2 oxidation catalyst changes during the 17,123 mileage durability testing.
[5] 3 oxidation catalysts in series used to achieve low HC and CO emissions.

TABLE 3-10.—LOW-MILEAGE EMISSION LEVELS FOR PROCO CONVERSION

[Figures are Averages for Number of Tests Shown, all vehicles use EGR and noble metal catalysts]

	CVS/CH test, grams/mile HC	CO	NO_x	CVS fuel economy, miles/gallon	Inertia test, weight, pounds	Number of tests
PROCO 141-CID Capris	0.12	0.46	0.32	20.4	2,500	6
	.13	.18	.33	25.1		
PROCO 351-CID Torino	.11	.27	.32	22.3	2,500	
PROCO 351-CID Montegos	.30	.37	.37	14.4	4,500	5
	.36	.13	.63			
M-151 PROCO ¼-ton truck	.33	1.08	.39	12.8		
¼-ton PROCO mail truck	.12	.30	.34	20.2	3,000	4
	.18	.21	.51	22.9	2,500	9

Carbureted Stratified-Charge Engine

An alternative approach, the CVCC system, now being developed by Honda, achieves charge stratification with a prechamber and dual carburetor. The engine uses a conventional engine block, pistons, and spark plugs; only the cylinder head, intake and exhaust manifolds, and carburetor are modified. The cylinder head contains a small precombustion chamber in addition to the main combustion chamber. The spark plug is located in the prechamber, which is fed through a separate carburetor and intake system with a fuel-rich mixture through a small third valve. The main carburetor and intake system feeds a fuel-lean mixture to the normal intake valve.

The fuel-rich mixture ensures good ignition; the approximately stoichiometric mixture at the prechamber exit propagates the flame into the fuel-lean mixture in the main chamber. A slow-burning flame is required to reduce NO_x formation and allow HC and CO burnup inside the engine. Emissions of NO_x CO, and HC are all lower than those of a conventional engine at the same lean air-fuel ratios.

In February 1971, emissions data with this system on engine dynamometer tests indicated the engine could meet 1975 standards;

the first successful care test that met the standards was in Spring 1972. In addition to developing a 2-liter, 4-cylinder engine for their own vehicle, Honda has applied the same techniques to modify two Chevrolet Vega 4-cylinder engines.

The Honda system is the most developed stratified-charge engine to date and has the lowest bare-engine emissions. Low-mileage emissions data are given in Table 3–11 for 54 Honda vehicles and two modified GM Vegas. All these cars met the 1975 standards without EGR or exhaust treatment, and Honda has expressed confidence that larger engines using the CVCC approach could also be made to meet 1975 standards without a catalyst. Especially impressive is the standard deviation of the low-mileage emissions of these vehicles. The standard deviation is 10 to 15 percent of the mean emissions. In comparison, mass-produced conventional-engine vehicles show standard deviations of 30 percent of the mean at higher emission levels.

Three Honda cars have completed 50,000-mile durability testing and met the 1975 standards with ease at every 4,000 miles. Data for these tests are given in Table 3–12. The Federal Test Procedure 11-lap mode was followed in these tests. Maintenance required was minor.

TABLE 3–11.—LOW-MILEAGE EMISSIONS DATA FROM HONDA TESTS OF CVCC SYSTEM

Vehicle	Engine displacement, cubic inches	Number of vehicles	Emissions grams/mile [1] HC	CO	NO_x
Honda Civic with CVCC, manual transmission	122	25	0.23	2.41	0.95
Honda Civic with CVCC, automatic transmission	122	3	.23	2.60	1.15
Honda Civic with improved CVCC, manual transmission	122	25	.21	2.33	.75
Honda Civic with further improvements, manual transmission	122	[2] 1	.25	2.5	.43
Original GM Vega, manual transmission	140	1	.13	10.6	3.80
GM Vega with CVCC, manual transmission	140	[3] 1	.26	2.9	1.18
GM Vega with improved CVCC manual transmission	140	[3] 1	.26	2.62	1.16

[1] 1975 CVS–CH test procedure.
[2] Average of 3 tests.
[3] 2-test average.

Note: Data for this table current on Nov. 24, 1972.

TABLE 3–12.—DURABILITY DATA FROM HONDA TESTS OF CVCC SYSTEM

Vehicle number and miles [1]	Emissions HC	CO	NO_x	Deterioration factor HC	CO	NO_x
1006:						
4,000	0.22	2.4	0.96	1.16	1.07	1.03
50,000	.26	2.6	.99			
2033:						
4,000	.21	2.7	.95			
50,000 extrapolated [2]	.25	2.7	.90	1.15	1.08	1.04
50,000 actual	.21	2.2	.93			
2034:						
4,000	.25	2.5	.89			
50,000 extrapolated [2]	.25	2.6	.82	1.06	1.05	.98
50,000 actual	.22	2.2	.70			
2035:						
4,000	.21	2.4	.95			
50,000 extrapolated [2]	.24	2.7	.96	1.12	1.12	1.00
36,000 actual	.19	2.2	.80			

[1] Mileage accumulation for vehicle No. 1006 was obtained on a chassis dynamometer. The other 3 vehicles were run on a proving ground.
[2] Vehicles 2033, 2034, and 2035 were modified to an improved version before the 50,000-mile testing was completed. Thus, to calculate deterioration factors, emission values at 50,000 miles were extrapolated from preceding measurements.

Note: Data for this table were current on Nov. 24, 1972.

In a recent series of three tests at low mileage, the average emissions measured were 0.25 grams per mile HC, 2.5 grams per mile CO, and 0.43 grams per mile NO_x. These levels were achieved by improving the configuration of the auxiliary combustion chamber and the air-fuel control pattern. No EGR or exhaust-treatment devices were used.

The emissions are not especially sensitive to variations in air-fuel ratio. Thus the required performance of the double carburetor system is no more demanding than current requirements. The two throttle plates are linked mechanically. The mean air-fuel ratio varies with operating mode.

The new cylinder head is about the same height as a conventional head. The new head, intake, and carburetor on the modified Vega fit comfortably into the engine compartment. The engine can operate on regular leaded gasoline; durability testing has been on unleaded gasoline to simulate fuel anticipated in the United States in 1975.

The effects on vehicle performance of the CVCC system are small. There is a slight loss in power for the same engine displacement due to leaner operation and decreased volumetric efficiency. Fuel economy is essentially unchanged. There are no driveability penalties.

Development of the Honda CVCC engine to achieve lower NO_x emissions is continuing. The effects of EGR and modifications to the basic combustion process are being examined.

Effect of Emission-Control Devices on Vehicle Performance, Driveability, Fuel Economy, and Safety

Some of the emission-control devices and techniques required to meet the 1976 emission standards have a profound effect on at least three areas of vehicle performance: acceleration capability, fuel economy, and driveability. There is also some concern that poor performance of such cars will make them unsafe in certain circumstances, for example, if the vehicle stalls when accelerating into fast-moving traffic. The customer is sensitive to these characteristics which affect both his pocketbook and his attitude toward any particular vehicle. Traditionally this area has been one in which customer complaints and warranty returns have been especially prevalent. It is therefore not surprising that manufacturers have registered great concern in the past about the adverse effects of emission control devices. By the same token, however, the market place imposes considerable inherent motivation for manufacturers to devote great attention to product improvement in these areas.

The comments that follow in this section refer primarily to vehicles equipped with the dual-catalyst emission-control system.

In general, vehicle acceleration capability is reduced by control measures applied for control of all three pollutants (HC, CO, and NO_x); however, NO_x control measures which reduce combustion temperature have the most serious deleterious effects. Reductions in compression ratio to enable use of lower-octane gasoline resulted in acceleration penalties, as did the minimization of enrichment techniques formerly provided specifically for rapid acceleration capability. In addition, the use of EGR to reduce combustion temperatures and thereby inhibit NO_x production imposes a severe acceleration penalty.

Losses in fuel economy accompany most of these losses in acceleration capability and are aggravated by countermeasures taken to overcome deficiencies in acceleration capability and driveability. Many of the smaller engines have been dropped in the various car lines. The use of a larger displacement engine results in a fuel economy penalty for both city and open-highway driving. When EGR is used to control NO_x emissions, the mixture must be enriched to retain adequate driveability, causing drastic reductions in fuel economy.

The most troublesome of numerous driveability problems is the cold-start problem. The quick choke action and subsequent lean mixtures required to minimize HC and CO emissions introduce problems with engine stalls and unsatisfactory drive-away during warm-up. EGR and spark retard cause such problems as lack of response, die-outs, and hesitation on acceleration.

In its January 1, 1972, report, the CMVE concluded that all three areas of vehicle performance discussed above would be adversely affected by the 1975 emission-control systems. Information received from manufacturers indicated losses in acceleration capability ranging from a minimum of 5 percent to a maximum of 20 percent over 1971 levels. All manufacturers anticipated losses in driveability, in some cases indicated to be severe. Anticipated increases in fuel consumption ranged from 5 to 15 percent for standard sized cars up to 20 to 30 percent for small cars, again over 1971 levels. Much of the deterioration in performance was anticipated to come with the introduction of NO_x requirements in 1973, and early reports on performance of the new models have confirmed this.

During 1972, the CMVE has received reports on both the 1975 and 1976 emission-control system progress. While manufacturers are still concerned with performance, particularly fuel consumption, the concern over vehicle driveability has diminished.

No substantial new acceleration, fuel economy, or driveability problems are introduced with the 1976 emission-control systems compared with the 1975 systems. At the same time, considerable progress has been made in finding solutions to problems that appeared to be very serious one year ago. It seems likely that competitive pressures will result in further improvements and improved reliability in these performance areas. The effort required is essentially engineering development based on extensive field experience with these new systems. The major long-term concern should be the continuing fuel economy penalty which results from the decreased compression ratio to allow the use of unleaded fuels, compounded by the use of EGR to control NOx emissions to very low levels, and aggravated by the increased engine sizes introduced to compensate for the loss in performance.

Alternative fuels

One approach to reduce emissions from conventional engines is the use of alternative fuels. The use of liquefied natural gas (LNG), liquefied petroleum gas (LPG), hydrogen, and alcohols have been considered by the Committee.

Liquefied natural gas and liquefied petroleum gas

Both industry and governmental groups have evaluated natural gas and propane (LPG) to determine their capability in reducing emissions from automobiles. One engine manufacturer showed that emission levels approaching the 1975–76 standards can be achieved, but exhaust gas recirculation is still required to reduce NOx formation to the 1975–76 standard. There is an 8 percent loss in peak engine power (350 cu. in. 1970 engine) from gasoline when using LPG and a 15 percent loss using natural gas. There is a substantial loss in fuel economy (30 percent), and driveability is impaired. The use of LPG for starting and warm-up in a dual-fuel car using gasoline for conventional operation was attempted. Cold-start emissions are decreased.

On an experimental natural-gas 6-cylinder engine sized for but operation, another manufacturer showed that the use of compressed or liquefied natural gas would produce emissions which would meet 1975 standards. The 1976 NOx standard could be met only with EGR, a catalytic after-burner, and a great reduction in performance. The emissions were

odorless and there was no particulate matter present.

There are over 5,000 cars converted to run on gaseous fuels in the Los Angeles basin where gas supplies and liquid systems have been joined together to provide the gaseous fuels to the car operators. Emissions are cleaner, maintenance is reduced, but a heavy bulky tank is required to hold the gaseous fuel.

Status of liquefied-gas substitutes for gasoline

The CMVE has investigated the technical problems and economic factors involved in supplying natural gas and LPG. It is possible to modify the petroleum refining process so that LPG can be substituted for gasoline for motor vehicles. The original capital costs would be in the $50 billion range. The fuel costs to the customer would be about twice as much as gasoline presently costs. Also, there is a serious net loss of energy in changing from gasoline to LPG. The percentage of crude oil consumed in the processing operations would increase from about 4 percent to about 14 percent. This would be an unrecoverable waste of natural resources.

There is not enough LPG, LNG, or Synthetic Natural Gas (SNG) currently available to be significant if conversion were desired now. A three-year lead-time for making changes for supplying these alternative fuels is a minimum.

Hydrogen

Hydrogen gas has three properties which when taken together, give it a unique potential as a vehicular fuel. First, since there is no carbon in the fuel, the problems of unburned hydrocarbons and of carbon monoxide do not exist. No after-burner, catalyst, or other secondary reaction vessels are needed.

Second, the flammability limits of hydrogen are extremely wide. The volume percentage of hydrogen in air can range over a factor of 19 and still be ignited by a spark. This contrasts with the factor of 5 for gasoline vapor. Because of this high flammability range, very lean mixtures of hydrogen gas may be used, thereby insuring that NO_x will stay within acceptable standards. With hydrogen as a fuel, no EGR is needed to reduce NO_x.

Third, the supply of hydrogen gas is virtually inexhaustible, although plants for its mass production are not yet available. Currently, the cheapest way of making hydrogen gas is to use natural gas as a base material. When natural gas approaches exhaustion, the cheapest way of making hydrogen gas will be to use coal as the base material. When the price of coal becomes too high, hydrogen can be made by heating or electrolyzing water. A source of energy is required to produce hydrogen by any of these methods.

An engine burning hdrogen gas at stoichiometric ratio emits no measurable hydrocarbons, organic or sulfur compounds, and only one-tenth the NO_x as when burning gasoline vapor at its stoichiometric ratio. Furthermore, at an air-fuel ratio of 1.75 times stoichiometric, the NO_x composition of the hydrogen exhaust is reduced by a further factor of 20, well below the 1976 standards. Several experimenters have reported satisfactory performance from internal combustion engines converted to hydrogen fuel.

The cryogenic fuel tank plus its hydrogen fuel would weigh 40 percent less than the conventional tank plus its gasoline having the same cruising radius, but would occupy five times the volume. Other storage methods are being sought.

One company is attempting to produce H_2 and CO_2 from unleaded gasoline in the car gas tank using a small reformer located in the trunk of the car. The H_2 and CO_2, produced in small quantities to avoid safety problems, could be burned cleanly in the slightly modified Otto-cycle engine. Questions remain on the ability of the reformer to carry out this reaction and on its efficiency, size and cost. Sound experimental work and socio-economic impact studies on the use of hydrogen as a vehicular fuel are required before unqualified success could be claimed for the approach. In any case large-scale use of hydrogen as an automotive fuel is not possible by 1976.

Alcohols

Alcohol has been proposed and used as a fuel for the internal-combustion engine; e.g., methyl alcohol is widely used as a racing fuel. Methanol has the advantage of providing a lower combustion temperature, reducing the NO_x emissions, and it also has lower lean misfire limits than gasoline, thus reducing HC, CO, and NO_x emissions while maintaining a satisfactory driveability. Emissions tests have been run on a 1970 American Motors Gremlin, using pure methanol as fuel, with a platinum catalyst converter in the exhaust. Emissions of HC, CO, and NO_x, using the 1972 CVS Federal Test Procedure, were below the 1976 standards.

Methanol has a lower heating value than gasoline, so yields correspondingly fewer miles per gallon. Starting at low temperatures with methanol is a problem; volatile compounds have to be added to assure starting.

Similar data on ethanol are not available. Tests on gasoline with up to 30 percent ethanol as fuel show no substantial improvement in emissions over pure gasoline.

POTENTIAL OF SPARK-IGNITION INTERNAL-COMBUSTION ENGINES FOR MEETING STANDARDS IN USE

Introduction

Section 3 presented an evaluation of the feasibility of spark-ignition internal-combustion engines passing the certification test for 1975 and 1976. This section assesses the feasibility of such engines continuing to meet the standards in customers' hands.

In this assessment, the first question to be answered is the adequacy of the certification test to evaluate the emissions performance of vehicles in customers' hands. The next question is the maintenance required on prospective 1975–76 control systems to achieve compliance in use. This calls for discussion of the procedures necessary to ensure proper maintenance, namely the nature and feasibility of required testing and maintenance. The latter depends in turn on the adequacy of the service industry and the interest of state governmental bodies enacting required legislation. Perhaps the overriding question is whether adequate consideration has been given to maintenance in the design of planned 1976 emission-control systems, most of which involve the use of catalytic converters.

Differences Between Certification Test and In-Use Operation

It is relevant to discuss here some of the more significant differences between the stresses on the emission-control system experienced during certification and during normal customer operation. The driving modes specified in the mileage-accumulation schedule of the certification procedure do not represent all the possible modes encountered in real life. There are some not included, such as sustained operation at high engine power and long decelerations, that will provide severe tests for emission-control systems, especially those using catalytic converters. Ford believes the certification test driving does not provide enough mechanical stress on the catalyst, especially if the driving is carried out on an automatically operated dynamometer, which is the usual procedure for the accumulation of mileage. The vehicles are stopped only for tests every 4,000 miles; in normal use, of course, vehicles stop much more frequently. With catalytic systems, catalysts will heat up and cool down several hundred more times in 50,000 miles of normal use than in certification. The New York City Department of Air Resources has also pointed out that the certification procedure does not represent actual driving conditions because of insufficient allowance for the effect of accessories.

Sufficient data are not available to fully assess the effects of low-temperature operation on catalyst durability. However, increased loading on the catalysts due to low ambient temperatures, as well as occasional bouts of freezing and thawing, appear to offer inuse conditions that would lead to the necessity for more frequent catalyst replacement than during the certification procedure.

The durability phase of the certification test should be sufficiently demanding to establish that the emission-control systems will perform in the hands of customers. The allowable maintenance in the durability test—one major tuneup in 50,000 miles—was selected to make the test tough and realistic. In real life, much more frequent maintenance will probably be necessary to keep 1975–1976 systems within the specified emissions levels, and the Act (Section 207(c)(3)) requires the manufacturers to furnish written maintenance instructions with each new vehicle. Manufacturers are in agreement that more maintenance than is allowed in the certification test will be necessary in actual use. This is supported by the fact that manufacturers are now requiring more maintenance as a condition of warranty than they were allowed in the certification procedure.

In summary, the Committee recognizes that vehicles in customers' hands will not be driven according to the CVS–1975 test procedure, will not be driven according to the durability driving schedule, and will not receive the maintenance specified by the manufacturer without rigid enforcement procedures. Therefore, stresses on the systems may be substantially greater in customer usage than in certification, and in-use emission levels may thus be correspondingly higher.

Maintenance Procedures Required for 1975–76 Systems

Although there are no data on the deterioration of the projected 1975–76 control systems in customer use, there are data on the typical deterioration of emission levels from the cars now being driven. These data provide some limited indication of the deterioration as a function of mileage that can be expected to occur with the new systems. Information provided by EPA, California, and ARCO on 1971 and prior model year cars indicates a substantial increase in emissions in customer use. Emissions were found to exceed the applicable standards at relatively low mileage.

The most comprehensive surveillance data on the emissions of cars in use have been taken by the California Air Resources Board. Data taken between January and March 1972 showed that 1970 model year cars, with an average accumulation of 32,000 miles, exceed the applicable California standards for all three pollutants by amounts ranging from 10 to 60 percent. 1971 model year cars, with an average mileage accumulation of only 13,000 miles, exceeded the applicable standards for at least one of the pollutants. Cars for these model years contain neither catalysts nor much of the other complex hardware proposed by most manufacturers for 1975–76 model years. Further, the applicable standards for California for these model years are many times higher than the federal standards for 1975 and 1976.

The dual-catalyst emission-control system proposed by most manufacturers for 1976 model year vehicles is a far more complex system than that used on current vehicles. Involved are a multitude of control valves, quick-warm-up systems, control circuits, etc., as shown in Figure 3–1. Of all these components, the catalysts themselves appear to be the least durable items. Spark plug misfire, sustained operation at high engine power, and descent down long hills are ex-

amples of situations that would result in catalyst overheating and possible failure. Such vehicle operation and driving modes would not occur in the mileage accumulation specified for the certification test.

In addition, there appears to be little incentive for the car owner to maintain the emission-control system. To the contrary, the engine will run more efficiently and smoothly with some elements of the emission-control system inoperative. For example, plugging of the EGR system would improve gas mileage, although also increased NO_x emissions. Increase of choking time would improve vehicle starting characteristics, yet also increase cold-start emissions.

The importance of adequate maintenance is recognized in Section 207(b)(2)(A) of the Clean Air Act, which requires manufacturers to warrant their emission-control systems to the purchaser if the vehicle or engine is maintained and operated in accordance with the manufacturer's instructions, and, in the recall provisions of Section 207(c)(1), which empowers the Administrator to recall a class of vehicles or engines if a substantial number of vehicles in each class, although properly maintained and used, do not conform with the standards. The recall provisions could be enforced by relatively frequent analysis of emissions from a sample fleet, carefully chosen for appropriate statistical representation. Should these give evidence of rapid deterioration of the control system, the recall power provided by Section 207(c) of the Act may then be invoked, with the manufacturer specifically enjoined to replace defective parts, and to defray the associated labor costs at his expense. In this situation, the burden falls not only on the manufacturer for recall and repair, but also on the car owner, for performing the required routine maintenance and for responding to notification of recall.

In order to achieve the reduction in automotive emissions anticipated by the Clean Air Act, it is apparent that methods must be provided for ensuring proper maintenance of the 1975 and 1976 emission-control systems in public use. Methods of ensuring the required maintenance include:

1. Requiring the service industry to adjust each car to manufacturer's specifications when performing any maintenance.

2. Periodically testing all cars and designating for adjustment or repair those not meeting pre-selected standards.

3. Periodically subjecting all cars to adjustment or repair.

The first method is based on the probability that the manufacturer's specifications for 1975–76 vehicles will represent adjustment to minimum emissions. Mechanics currently adjust cars for high performance. If they continue to do this when manufacturers' specifications are for low-emission adjustments, the cars will emit above the standards.

The principal variations in the second method are related to how much of the work is done in state-owned and how much in privately owned facilities, the testing procedure used, testing frequency, pass/fail standards, provision for retesting after repair/adjustment, and disposition of vehicles that cannot meet the standards.

The significant variations in the third method are related to whether the cars are adjusted to some pre-selected standards and whether preventive maintenance is included. Preventive maintenance may be the best feature of this method. Other methods for ensuring the maintenance of cars in use are probably feasible only if engineering changes, which do not seem likely by 1976, are made. They are:

4. Repair at the time of failure of any important emission-control device based on the presence of devices that signal the failure not only to the driver but also to the traffic officer.

5. Repair at the time of failure of any important emission-control device based on the manufacture of control systems that noticeably degrade the vehicle performance when an important component fails.

6. Prescribed maintenance at predetermined intervals. This method would require strict quality control of the manufacturing process so that essentially every car was held to a configuration proved to give low emissions in actual use.

Adequacy of the Service Industry

Training

The service industry at the present time is not adequate to service 1975–76 cars from an emission control standpoint. Knowledge of the devices, the diagnostic equipment, and the number of mechanics are inadequate. The number of vehicles per mechanic in the country has risen from 75 in 1950 to 145 in 1970. During the same time, cars have become more complex and less repair-oriented in design. The states that have studied the problem all feel that training on emission-control devices is needed and that the states should be responsible for recommending suitable equipment. New York plans to certify garages as properly equipped for emission-control work. California licenses mechanics, and New Jersey will depend on the promise of large-volume business to motivate the private sector to establish its own training and licensing programs. The service-industry mechanic will have to be trained to understand and perform repairs and adjustments whether or not he performs the complete or partial diagnosis to isolate problems causing excessive emissions. The amount of training will vary slightly with the degree of state control on mechanics, but will generally have to be extensive.

Number of mechanics

The number of mechanics required to maintain 1975–76 emission-control systems will depend upon the interpretation of the 50,000-mile warranty provision of the 1970 Clean Air Amendments. If the new-car dealerships assume the responsibility and owners are required to bring their cars into the dealers' garages for periodic inspection and maintenance, a new force of about 12,000 mechanics per year will need to be trained for the dealers, on the assumption that 1975–76 control systems will require about two hours more per year than now spent to perform routine inspection and maintenance. This number of men will need to be added each year for about five years if new-car dealers maintain new cars during warranties: i.e., a new work force of about 60,000 men will be needed by 1980. When warranties expire, experience has shown that most owners will take their cars to garages other than new car dealers; hence, after 1980, an indefinite number of additional mechanics in garages other than new car dealers will need to be trained. The number of mechanics needed in the service industry is difficult to estimate because most of them will probably work only part time on emission control.

California is the only state that licenses mechanics to install and repair emission-control devices at this time. Only a few other states have plans to license mechanics. A Northrup study for the State of California and a similiar study by the State of New Jersey have shown that a simple indoctrination of mechanics is not sufficient to obtain cost-effective emission tune-ups.

Equipment

The garages in the service industry will need to be significantly upgraded with new equipment to perform diagnoses and tests to determine if vehicles need adjustment or repair and to show that the adjustments and repairs were accomplished. The amount of equipment needed will depend partially on whether or not the state operates inspection stations and what kind of inspection test the state performs. However, the state inspection system that would significantly reduce service-industry equipment requirements would be one in which the state would perform the complete diagnosis and instruct mechanics on what parts to replace.

State Action

Inspection and maintenance systems

State governments have been interested in inspection and maintenance of motor vehicles as a means of reducing exhaust emissions for many years. For example, the New Jersey system, put in operation on July 5, 1972, is the outgrowth of an investigation that started in 1966. It should be noted that even in the New Jersey system, which is the farthest advanced, the features of compulsory maintenance will not be instituted until July 5, 1973. The first year of inspections is being used only to educate the public and eliminate the difficulties.

California has required a certificate of compliance from licensed installation stations since PCV valves were first required in 1963. Idle-exhaust measurement for HC and CO is also now done as part of California's roadside safety inspection. Cars exceeding inspection standards must be taken to a licensed mechanic for adjustment, and a notice that the work was done must be returned by mail.

This interest in inspection/maintenance systems undoubtedly arose from the knowledge that a well-maintained car emits less pollutants. A large impetus toward such systems has been added by the realization that the manufacture of cars meeting the 1975 and 1976 federal standards is not sufficient unless some system can be found to keep the complicated emission-control devices operating properly.

A survey of the present status of the state efforts to establish inspection/maintenance systems and an investigation of the reasons for the long-time delay in even the most active programs are, therefore, relevant parts of the Committee's investigation of methods of ensuring that the 1975–1976 cars meet the federal standards in actual use.

Certain federal action or lack thereof has had a noticeable effect on state action in this field. The Clean Air Act generally preempted motor vehicle emission control for the federal government. This raised several problems connected with the design of state systems. The first is a tendency toward delay; in the few cases in which a state had already started the design, revision was necessary and the states which had not started tended to wait for federal action.

Also pertinent are Sections 110 and 207 of the Clean Air Act. Section 110 requires the states to submit a plan for the implementation of the national ambient-air quality standards, and Section 207, deals specifically with motor vehicle compliance. Under the latter, once EPA determines that adequate inspection procedures are available, they are to be established by regulation. Since implementation plans are not yet final for all the states, and since the determination called for by 207(h) has not been made, resulting uncertainty inevitably leads to delays in program planning by the states.

The selection of the most suitable method for a state system depends not only on the engineering approach finally adopted by the manufacturers and on the test procedure designated by EPA, but also on whether the method is to be used only to minimize emissions or also to enforce the warranty on individual vehicles.

If the purpose is only to minimize emissions, periodic repair/adjustment of all cars including preventive maintenance is a possible choice. This approach would require no special inspection facilities owned by the state, but it would require careful surveil-

lance of privately owned garages and additional equipment in these garages.

Requiring the garages to adjust each car to manufacturer's specifications when performing any maintenance also does not require state-owned facilities but does require close supervision. Preventive maintenance could be part of this method and, with this addition, this method only differs from the one first discussed by being voluntary instead of mandatory.

Periodic inspection of all cars with measurement of the exhaust emissions and compulsory adjustment or repair of those cars that have emissions exceeding pre-set standards is the method usually meant by an inspection/maintenance system. However, tests other than emissions measurements can be used for inspection in this method. It is normally thought of as occurring annually at the time of license renewal. This system can be operated on three bases: inspection and repair/adjustment in state facilities, inspection in state facilities and repair/adjustment in privately owned garages, and inspection and repair/adjustment in privately owned garages licensed or franchised by the state. The second of the three choices is the usual one principally because of the public distrust of the service industry, which causes the public to prefer inspection by the state. The first one is not chosen because of the reluctance of the state to compete with private enterprise and because of the many complications connected with building state-owned repair facilities.

If the method selected must also include enforcement of the individual car warranty, it will be built around a test yet to be specified by EPA. It is usually assumed that this will be some type of short emissions test, but Section 207(b) of the Act would allow the Administrator to decide that functional tests on the components correlated reasonably well with the results of the CVS–CH test. It is conceivable that these tests could be done in privately owned facilities, but the quasi-official nature of the warranty test and its consequences make a state-owned inspection lane the more obvious choice.

If the method includes enforcement of the warranty, EPA will provide the appropriate test; if not, there is wide latitude. Diagnostic tests will be part of any system, since such tests and repair/adjustment cannot be separated, and repair by mechanics is the only operation that provides a direct emission reduction. Inspection lanes select the vehicles needing adjustment or repair but otherwise do nothing to reduce emissions unless the results assist or control the mechanics making the repairs. Inspection lanes can assist and control the mechanics in one or more of the following ways:

1. Detect vehicles with excessive emissions (needing repairs).

2. Detect vehicles with excessive emissions and give a partial diagnosis to help the mechanics get started.

3. Provide a complete diagnosis of repairs needed on vehicles with excessive emissions; and

4. Insure that repairs are complete and correct.

A study by Northrop Corporation for the State of California found that a schedule of diagnositc tests was not a cost-effective approach to the emission control of used cars. The study showed that exhaust-emission tests by a short dynamometer test (Key Mode) or an idle test gave partial diagnostic information and was more cost-effective. Partial diagnostic information was given to the repair mechanic to assist him in the final diagnosis.

The Key Mode and idle approach were reasonably effective for correcting the major emissions problems in used cars. They may not be adequate for controlling 1975–1976 cars to much lower emission levels because there is not yet available a short test that is precise enough to give a pass or fail that is meaningful in terms of meeting 1975–1976 standards. 1975–1976 cars will require a much more thorough diagnosis of the complete emission control system.

Diagnostic tests could be useful in inspection lanes if they provided complete information on engine and control-system failures and operation. This could be accomplished by an automatic and computerized diagnostic console, programmed to accomplish quickly and inexpensively one or both of the following:

1. Functional tests showing that the engine and/or the control system are not within specifications where it is known that the combined system will meet the standards.

2. Diagnostic tests showing what parts need to be checked and/or replaced.

The mechanics in the service industry could be trained to understand and use the information supplied by the inspection-lane diagnoses.

Diagnostic Tests at Garages

The facilities and equipment of garages can be upgraded to perform diagnostic tests at periodic intervals. The advantage of this approach is that the mechanics accomplishing the repairs would have first-hand knowledge of the diagnostic test results. Disadvantages of this approach for 1976 vehicles are:

1. Functional NO_x catalyst activity tests and NO_x analyzers have not yet been developed to diagnose NO_x controls. It may be possible to check the activity of a reduction catalyst in the oxidizing mode.

2. The engines may need to be loaded in order to produce enough NO_x for a meaningful test.

Selection of Repair/Adjustment Standards

Since the object of an inspection/maintenance system is to reduce the total amount of pollutants emitted to the atmosphere, there is a strong incentive to require repair and adjustment for a higher percentage of the cars found to be over standards. However, as more and more cars are adjusted/repaired, the gain in air quality per dollar spent decreases; i.e., the cost effectiveness decreases. With practical and cost considerations thus limiting the number of cars sent for adjustment and repair, the maximum emissions reduction is to be achieved by adjusting only those cars whose emissions are clearly high and leaving alone those below or near the satisfactory level.

The percentage of cars sent for adjustment/repair must be considered with great care also because it increases the load on both the service industry and the inspection lanes and because a high percentage of rejections will destroy public support, which is so important.

With the present state of the service industry, a sizable percentage of cars will not meet the standards after the first repair/adjustment if the levels are strict. In addition there is a shortage of mechanics of even reasonable training. If the standards are set to send a high percentage of cars for repair/adjustment, the number of cars that cannot meet the standards without costly repairs will be so large that it will again affect public support.

Timing and Cost of Inspection Facilities

The time and cost required to set up inspection facilities depend to a large extent on the amount and type of related facilities that are already available. Three cases will be considered:

1. Safety-inspection facilities are already available and emissions testing can be added to such facilities.

2. Properly controlled, privately owned service facilities are available, with emissions testing done at such facilities.

3. Neither condition 1 or condition 2 exists and inspection facilities must be built.

New Jersey is an example of the first situation and it has proved relatively easy from a physical standpoint to add emissions testing to the state-owned safety-inspection lanes. For the idle test that they are using, equipment costs are about $2,000 per lane. On the assumption that legislative authority already exists, it should be possible to put emissions testing in operation in one year. Extra manpower required would be one per lane. No meaningful estimate of operating or capital costs chargeable to the emissions testing is possible because of shared costs. Time and cost would both increase if the testing were also intended to enforce the federal individual car warranty.

California could be an example of the second situation since they license Grade A mechanics for various specialties including emission-control devices. The time required in this case should also not exceed one year. Costs for added equipment would again be about $2,000 per station for an idle test. Operating costs would be mixed with adjustment and repair costs and, consequently, a separate estimate is probably of questionable meaning.

The third situation has been studied in considerable detail by Northrop-Olson Laboratories and also by TRW. Because of the conditions assumed in this study, the cost results must be qualified although the results do give a good indication of the range to be expected. The land, structure, and equipment will cost from $23,000 to $60,000 per inspection lane, with a major portion of the difference in cost caused by the presence or absence of dynamometer equipment. These numbers are approximately confirmed by the TRW study which estimated $44,000 to $52,000 per lane for dynamometer-equipped facilities. Different tests not only use different equipment but they also have different throughputs per lane.

Based on these factors, the cost of land, structure, and equipment on a one-inspection-per-year basis is between $1.30 and $8.80 per car when calculated for California's population distribution and 10 million cars.

Operating costs in 1976 would be between $1.20 and $4.00 per car per year, again under California conditions. The original capital costs are a small fraction of this and they are included with structures amortized over 20 years and equipment over 5 to 10 years.

Training time for personnel would be between 90 and 180 hours per man, which includes 40 hours classroom training.

Again on the assumption that legislative authority already existed, it would probably take 1.5 to 2 years to acquire land, erect and equip the buildings, and train personnel. At least one year must be added to any of the above time schedules if legislative authority does not already exist. Even more time must be added if an operational plan does not exist; witness the New Jersey and New York experiences. A state just starting would probably be fortunate to have a fully operational inspection system in 4 years.

In summary, only few states have any semblance of a testing/inspection system that would be adequate to ensure compliance in use. Most states do not even have plans for such systems. The present service industry is inadequate to maintain the complex emission-control hardware called for with the dual-catalyst system planned for use in 1975–76. With this pessimistic appraisal of feasibility, it is well to consider alternate approaches.

Incorporation of Maintenance Considerations in Emission-Control System Design

The pessimistic appraisal of the feasibility of vehicles equipped with dual-catalyst control systems meeting the standards in customer use is indicative of a lack of consideration of maintenance in the design of such systems. From the data presented in Section 3, it appears that several systems offer maintenance advantages over the dual-cata-

lyst system, although the low-mileage emissions of such systems, on experimental vehicles, may not currently be as low as those of the dual-catalyst system.

The three-valve carbureted stratified-charge engine and the Wankel engine with thermal reactor show potential for low emissions without the use of catalysts. HC and CO deterioration factors for the former, at 1975 levels and as measured on the federal driving cycle, are considerably less than those from catalyst-equipped vehicles.

Development work is required on the engine to reduce NOx emissions to 0.4 grams per mile; however, such a development effort would seem well worthwhile due to the potential of the engine for reduced maintenance and improve performance in use over the dual-catalyst system.

Systems employing precise control of air-fuel ratio with a feedback loop, discussed in Section 3.6, have several possible maintenance advantages. Since an air-fuel ratio near stoichiometry results in almost optimum performance, the serious performance and fuel penalties inherent in other NOx-control methods would be eliminated; the advantage, from the owner's viewpoint, of an inoperative control system would be removed. In fact, any malfunction of this system might easily degrade vehicle performance so that the owner would be encouraged to get the emission-control system fixed.

Since such a feedback loop makes the engine essentially self-tuning, this approach should also eliminate a large fraction of the inherent variability between individual vehicles that results from manufacturing tolerances. Possibly also, operational variabilities that result from variations in driving habits, fuel consumption, atmospheric parameters, and induction-system deterioration would be largely eliminated. Thus a larger fraction of cars would operate as designed and emit less pollutants.

Excessive catalyst temperature caused by the simultaneous presence of excess oxygen and large amounts of combustibles would be eliminated since neither rich mixtures nor secondary air is required. Finally, since the system includes an electronic control circuit, installation of signals for malfunctions should be relatively easy.

Summary

Emissions of 1975–76 vehicles in customer usage can be expected to be greater than those measured during certification. Because of the added emission controls, most vehicle configurations proposed for these years will require more maintenance than at present. For all systems, some additional inspection and maintenance will be necessary to assure that the vehicles are meeting standards in use. Some legal enforcement procedures will be required to assure that necessary inspection and maintenance are performed; otherwise, vehicles will very likely exceed the emission standards in use.

The service industry at the present time is not adequate to service the 1975–76 cars from an emissions standpoint. Only few states have a semblance of a testing/inspection system for emissions that would be adequate to ensure compliance in use.

A basic problem in establishing technological feasibility is that maintenance considerations have not been given adequate attention in design. The three-vale carbureted stratified-charge engine, Wankel with thermal reactor, and catalytic system with exhaust sensors and feedback control seem to have far more potential for achieving low emissions in use than the dual-catalyst system currently being proposed by most manufacturers for the 1976 model year.

MANUFACTURING, COSTS, AND PRODUCIBILITY

Manufacturing plans of the major automobile companies for 1975–1976 systems are not firm at this stage. Changes will almost certainly be made between now and the start of production. However, each company has taken positive steps toward implementation of their best estimate of the components that might be introduced for 1975 and 1976. Schedules are compressed and significant risks are involved. Consequently most companies have more than one alternative plan for the emission-control system for these model years. In some cases, manufacturers have designed and/or made tooling for alternative configurations.

Manufacturability of several proposed engine systems

Several types of engines that might be produced in the 1976 model year have been evaluated from the view point of manufacturability and costs. These engines are: 1) the dual-catalyst system proposed by most manufacturers, 2) the diesel, 3) the Wankel, 4) the three-valve stratified-charge, and 5) a feedback-controlled system with electronic fuel injection and a three-way catalyst.

The dual-catalyst system

In response to California and federal regulations over the years, the automotive industry has progressively added to the emissions-control devices on automobiles. Due in part to a determined effort to preserve as much of the technology of the carbureted internal-combustion engine as possible, the approaches to emissions control have consisted of add-ons and relatively minor engine modifications. Although the various companies have worked independently, there have been many similarities in approach, and the typical pattern of hardware addition is presented in Table 5–1. Beginning with the 1976 model year, this system will include both oxidation and reduction catalysts; thus it is termed the dual-catalyst system. This system is shown schematically in Figure 3–1.

The corresponding increases in sticker price associated with these hardware additions are detailed in Table 5–2 and summarized in Table 5–3. According to these estimates, the additional price increase of 1976 models over those of 1975 is about $134.00, or nearly the same as the increment for the preceding year.

At this time it still appears possible for the manufacturers to mass-produce systems similar to that shown in Figure 3–1 for their 1976 models. However, until the systems show more likelihood of meeting certification for 1976, the manufacturers are reluctant to make major commitments, particularly for catalysts, and much more delay will make these systems technologically impossible for 1976 because of insufficient lead time. If this type of system is to be mass-produced in the 1976 model year, the following must have been accomplished by mid-1973:

Freeze design for production.

Build catalytic converter plant and line.

Commit to plant and equipment for substrate.

Commit to new carburetor production design.

Freeze design of early fuel-evaporation system.

TABLE 5-1.—CHRONOLOGY OF DEVELOPMENT OF THE DUAL-CATALYST SYSTEM

Model year:	Emission hardware added:
1966	(a) PCV valve.
1968	(a) Fuel-evaporation control system.
1970	(a) Retarded ignition timing. (b) Decreased compression ratio. (c) Increased air/fuel ratio. (d) Transmission-control system.
1972	(a) Anti-diese solenoid valve. (b) Thermostatic air valve. (c) Choke-heat bypass.
1973	(a) Exhaust-gas recirculation. (b) Air-injection reactor (c) Induction-hardened valve seats. (d) Spark advance control. (e) Air pump.
1974	(a) Precision cams, bores, and pistons.
Model year:	Emission hardware-likely configurations:
1975	(a) Proportional exhaust-gas recirculation. (b) Carburetor with altitude compensation. (c) Air/fuel preheater. (d) Electric choke. (e) Electronic ignition. (f) Improved timing controls. (g) Oxidizing catalytic converter. (h) Pellet charge. (i) Increased cooling system. (j) Improved underhood materials. (k) Body revisions.
Model year:	Most common configuration:
1976	(a) NO_x catalytic converter, 2 required. (b) Electronic emissions control. (c) Sensors.

Model year and configuration	Value added[2]	Tooling amortization[3]	Dealer margin[4]	Profit[5]	List price	Excise tax[6]	Sticker price
TYPICAL EMISSIONS HARDWARE							
1966: PCV—Crankcase	1.90		0.66	0.29	2.85	0.15	3.00
1968: Fuel evaporation system	9.07	0.45	3.30	1.43	14.25	.75	15.00
1970:							
Carburetor A/F ratio	.61	.02	.22	.10	.95	.05	1.00
Compression ratio	1.24	.03	.44	.19	1.90	.10	2.00
Ignition timing	.61	.02	.22	.10	.95	.05	1.00
Transmission control system	2.49	.05	.88	.38	3.80	.20	4.00
Total, 1970							8.00
1971, 1972:							
Anti-dieseling solenoid	3.07	0.10	1.10	0.48	4.75	0.25	5.00
Thermo air valve	2.49	.05	.88	.38	3.80	.20	4.00
Choke heat by-pass	2.74	.05	.97	.42	4.18	.22	4.40
Assembly line tests, California; 1/10 vol.)	.18	.20	.13	.06	.57	.03	.60
Total, 1971–72							14.00
1973:							
OSAC (spark advance control)	.48	.15	.22	.10	.95	.05	1.00
Transmission changes (some models)	.63		.22	.10	.95	.05	1.00

Model year and configuration	Value added [2]	Tooling amortization [3]	Dealer margin [4]	Profit [5]	List price	Excise tax [6]	Sticker price
Induction hardened valve seats (4 and 6 cyl.)	0.72	0.55	0.44	0.19	1.90	0.10	2.00
EGR (11–14 percent) exhaust recirculation	5.48	.87	2.20	.95	9.50	.50	10.00
Air pump—Air injection system	27.16	1.80	10.03	4.33	43.32	2.28	45.60
(Quality audit assembly line; 1/10 vol.)	.23	.02	.09	.04	.38	.02	.40
Total, 1973							60.00
1974:							
Induction hardened valve seat V–8	.72	.55	.44	.19	1.90	.10	2.00
Some proportional EGR (1/10 vol. at $52)	3.21	.10	1.14	.49	4.94	.26	5.20
Precision cams, bores, and pistons	2.44	.10	.88	.38	3.80	.20	4.00
Pretest engines—Emissions	1.80	.10	.66	.29	2.85	.15	3.00
(California catalytic converter system; 1/10 vol. $64)	4.02	.04	1.41	.61	6.08	.32	6.40
Total 1974							20.60
1975:							
Proportional EGR [7] (accel-decel)	20.07		6.95	3.00	30.02	1.58	31.60
New design carburetor with altitude compensation	7.52	2.00	3.30	1.43	14.25	.75	15.00
Hot spot intake manifold	2.87	0.30	1.10	0.48	4.75	0.25	5.00
Electric choke (element)	2.67	.50	1.10	.48	4.75	.25	5.00
Electronic distributor (point-less)	4.35	2.00	2.20	.95	9.50	.50	10.0
New timing control	1.40	.50	.66	.29	2.85	.15	3.00
Catalytic—Oxidizing, converter	18.86	4.00	7.92	3.42	34.20	1.80	36.00
Pellet charge, 6 lbs. at $2/lb	12.00	1.72	4.75	2.05	20.52	1.08	21.60
Cooling system changes	1.17	.10	.44	.19	1.90	.10	2.00
Underhood temp. materials	.63		.22	.10	.95	.05	1.00
Body revisions, welding presses	.67	.60	.44	.19	1.90	.10	2.00
Assembly line changes	.13	.50	.22	.10	.95	.05	1.00
End of line test, Go—No Go	1.85	.05	.66	.29	2.85	.15	3.00
Quality emission test	1.22	.05	.44	.19	1.90	.10	2.00
Total, 1975							138.20
1976 MOST COMMON CONFIGURATION							
1976:							
2 NO_x catalytic converters	22.00	2.76	8.58	3.71	37.05	1.95	39.00
	22.00	2.76	8.58	3.71	37.05	1.95	39.00
Electronic control	28.00	3.75	11.00	4.75	47.50	2.50	50.00
Sensors	3.00	.81	1.32	.57	5.70	.30	6.00
Total, 1976							134.00

[1] Estimates based on 1972 dollars.
[2] Either value added or hardware cost, including material, labor overhead and G & A.
[3] Tooling and equipment amortized over 3 years.
[4] As 22 percent of selling price.
[5] As 10 percent of list price.
[6] As 5 percent of sticker price.
[7] Proportional EGR costs were adjusted based on recent data.

Note: Costs are the average for the various car sizes and production volume for each size.

TABLE 5-3.—SUMMARY OF STICKER PRICES FOR EMISSIONS HARDWARE FROM 1966 UNCONTROLLED VEHICLE TO 1976 DUAL-CATALYST SYSTEM

[1972 dollars]

Year	Sticker price increase	Cumulative price
1966	$3.00	$3.00
1968	15.00	18.00
1970	8.00	26.00
1971–72	14.00	40.00
1973	60.00	100.00
1974	20.60	120.60
1975	138.20	258.80
1976	134.00	392.80

Diesel Engine

Some light-weight diesels are currently being produced for passenger cars, mainly in Europe and Japan. However, because it is difficult to make a diesel engine meet the 1976 NO_x standards, and, for other reasons discussed in Section 6.1, there is no serious effort to develop the diesel engine for large-scale mass-production as a passenger-car engine. If diesel engines are developed to meet the 1976 emission levels, the emission control will probably be largely achieved by engine modifications and possibly turbocharging. Thus, even though the exact configuration is undefined, the manufacturability would not differ greatly from that of current diesel engines, and the major manufacturing problems can be identified.

The engines themselves are quite similar to Otto-cycle piston engines, but necessarily heavier to withstand higher operating pressures. The transfer and assembly lines for these engines are similar to those used for existing gasoline engines. Fuel-injection pumps and injection nozzles are now being produced on very modern mass-production equipment in England and Germany. Turbochargers have been produced in low volume for larger engines, and adaptation to mass-production for smaller engines is quite feasible. Most of the technology for mass-production of light-weight diesel engines is available but scattered, mostly in Europe. This wide dispersion of technology is a major barrier to the coordinated development of a low-emission diesel engine.

In addition to changes in the engine and its auxiliaries, conversion of automobiles to diesel power would require relatively major modifications of the frame, suspension, and body in order to accommodate the larger, heavier engine. If a diesel engine that can meet the 1976 emission standards is developed, and if, as assumed here, it is generally similar to present diesel engines, it should be possible to mass-produce them for the 1976 model year if the following have been accomplished by mid-1973:

Freeze design for production.

Arrange for transfer of European light-duty diesel technology.

Build low-volume production tooling.

Plan for conversion of gasoline engine lines for diesel engine production.

Plan body changes.

Arrange for supply of turbochargers (if used).

Wankel Engine

The Wankel engine is being mass-produced in Japan and sold in the United States at competitive prices. The engine is in mass-production in Japan at Toyo Kogyo with American sales of the Mazda in the United States projected at 350,000 units in 1975. A recent announcement indicates a production commitment to the Wankel engine by General Motors. There is every indication that a substantial number of Wankel-powered automobiles will be driven on United States roads in 1976.

The engine has a cost advantage due to its low weight per horsepower—about 1.5 pounds per horsepower compared to 4 to 6 pounds for a piston-type gasoline engine. The manufacturing advantages of the Wankel engine are that it can be manufactured and assembled on fully automatic production lines. The engine design will eventually allow a new frame and body design that will have many safety, space, and weight advantages. The implementation plan for the General Motors Wankel engine has it introduced into the low end of the line, possibly replacing both the 4- and 6-cylinder engines in turn. The optimum-cost volume per year of the Wankel engine will be between 450,000 and 600,000 engines per year. The small V–8s might also find a larger-diameter 2-rotor Wankel engine as a competitor. A 4-rotor Wankel engine is a more complex design with longer crank shaft. Two to four more years will be required on its development before it can be considered a competitor to the larger V–8.

The manufacturing requirements for the Wankel engine are concentrated around the following significant equipment: a trochoid grinder for the rotor housing, a rotary grinder for finishing of the end housings, an eccentric grinder for the rotor, some special plating equipment combined with surface-preparation equipment, and special equipment for pressing and sintering the apex seals. These machines are available today from several machine-tool concerns and can be delivered within one or two years. Mass-production conversions of these will require between one and two years of tooling design. An automatic assembly line and machining line combined will probably take anywhere from three to five years to develop and install.

The cost of a future Wankel-powered car will be $140.00 to $800.00 less per car than the corresponding 1976 dual-catalyst configuration; of this amount, $25.00 to $77.00 is due to the engine, and the remainder of the saving would come from design of a lighter, shorter car.

The Carbureted Three-Valve Stratified-Charge Engine

Because the three-valve stratified-charge engine is basically an existing carbureted spark-ignition piston engine except for modifications to the cylinder head, carbureter, and manifolds, it presents relatively few production problems. Manufacture of all components is based on known and proven technology. Honda Motor Company plans to produce this type of system for their 1974 models in Japan, and they will introduce it in the United States in 1975. For another manufacturer to mass-produce this system in model year 1976 would require the following accomplishments by mid-1973:

Transfer technology from Honda Motors.

Freeze design for production.

Decisions made and orders placed for new transfer lines for cylinder heads, manifold systems, and carbureters.

Design new camshaft-production line.

A Typical Feedback-Controlled System

Because of the apparent potential for emission reduction and ease of maintenance, which might result with further development of some of the feedback-controlled sys-

tems, manufacturability and costs of one of these systems were evaluated. The configuration studied included electronic fuel injection and a three-way catalyst. As with the dual-catalyst system discussed in Section 5.1.1, this approach requires relatively minor changes to existing engines, with the conversion from carburetion to fuel injection being the most significant. The mini-computer that controls the injection timing and duration is based on known technology, and manufacture of the catalyst is similar to that for the dual-catalyst system. Once a satisfactorily durable oxygen sensor is developed, its manufacture should be relatively simple. Production of this system for the 1976 model year is quite feasible, provided the following have been accomplished by mid-1973:

Freeze design for production.

Commit to pump and nozzle plants.

Build low-volume production tooling and vehicles.

Field test low-volume production vehicles.

Commit to electronic emissions control unit plant and tooling.

Manufacturability and Costs of Automotive Exhaust Catalysts

As discussed previously, most manufacturers plan to use a dual-catalytic system for 1976 model year vehicles. From a manufacturing standpoint, the problems of producing oxidizing and reducing catalysts are the same. The catalyst manufacturers who propose pelletized catalysts already have the sources for a substantial portion of the carrier materials and some capacity for coating with the active material. This type of catalyst is used extensively in the petroleum industry. The manufacturing facilities need only to be increased or additional similar type of equipment provided.

Many companies are active in the development of catalysts and substrates. In addition to the long-established catalyst and substrate manufacturers, General Motors has recently disclosed that they have developed an extrusion method for making monolith catalyst carriers. They have plans for constructing these facilities and have indicated their intention to become major emission-control catalyst manufacturers, including the carrier containers and possibly the active material that is coated on the carrier.

It has become increasingly apparent that 1976 catalysts will require the use of large quantities of noble metals. The two noble metals of greatest promise are platinum and palladium; for oxidation alone, a car of 350-cubic-inch displacement would need up to 0.15 ounces of either metal. This figure would be doubled if the requirement for the NO_x catalyst is similar. Thus, there would be a demand of as much as 3 million ounces for the initial installation of the catalytic converters required, a figure comparable to the world production in 1970. Ruthenium is the most promising NO_x catalyst, although it is in short supply. The recovery of platinum contained in spent catalyst delivered to the door of precious-metal refiners should be above 99 percent. The efficiency of scavengers in collecting spent noble-metal catalysts is difficult to estimate. Since the value of the recovered metal is of the order of $15–20 per car, efficiency of scavenging should be high. For comparison, copper is 50¢ per pound and 61 percent of scrap copper is recycled in the United States. Most base-metal catalysts are promoted with precious metals at less than 0.01 ounce per car. In this case, there is less incentive for scavengers to collect resources.

It appears that the required amounts of noble metal can be made available to meet production schedules if decisions are made early enough; postponement would cause increasing difficulties with delivery. Some companies have delayed decisions because of the very large commitments for opening mines and having new plants built.

Summary of costs of various proposed systems

The relevant cost concept is the total cost to the American people of meeting the emission standards, which must be weighed against the cost of air pollution by present automobiles with their attendant human discomforts and illnesses. This includes not only increases in automobile purchase prices, but also increased cost of fuel, maintenance, repair, and driveability that result from pollution-control devices. Of these considerations, it is especially difficult to relate poorer driveability to a cost in dollars, but the customer pays in other ways, e.g., through frustrations and delays. Dollar estimates of the other costs can be made, although these are necessarily imprecise because of uncertainties at this stage.

A summary of the estimated increments in annual costs due to emissions-control systems for several possible 1976 car and engine combinations is given in Table 5–4. The engines are those that have been discussed, and price increments have been calculated for those car-engine combinations that appear feasible. The stratified-charge 3-valve engine may eventually be developed for larger cars, but so far its potential for low emissions has been demonstrated only in small cars. The cost increments are measured from equivalent 1970 model cars as a baseline, and these annual costs are amortized over a five-year period. These figures include not only the direct cost of emissions hardware, but also associated costs of redesign of the rest of the car to accommodate the new systems. These associated costs include weight penalties, which can be quite significant in either direction; e.g., diesel-powered cars will be relatively heavy, whereas an automobile designed around the compact Wankel engine can be appreciably lighter than present cars.

TABLE 5–4.—TOTAL ANNUAL COST TO CUSTOMER OF EMISSION CONTROLS [1] FOR VARIOUS BODY AND ENGINE COMBINATIONS

	Subcompact	Compact	Intermediate A [2]	Intermediate B [3]	Standard	Standard luxury	Luxury
Dual-catalyst system	127	138	215	243	263	285	361
Diesel with EGR	18	—[4] 45	30	—[4] 18	36	41	14
Wankel	86	117	120	105	133	198	148
Stratified—Charge 3-valve	65	77	67				
Feedback—Controlled with electronic fuel injection	51	50	85	52	87	97	114

[1] Compared to cost of 1970 base-line car and amortized over 5 years. Includes increments in fuel and maintenance costs. Fuel-cost estimates were based on 40 cents per gallon for all fuels and all years.

[2] Intermediate A bodies are those intermediates that currently use 6-cylinder engines.

[3] Intermediate B bodies are those intermediates that currently use 8-cylinder engines.

[4] The diesel 4-cylinder is used in compact cars and the 6-cylinder is used in intermediate B cars.

Estimates of increased costs of fuel consumption and maintenance due to emission controls are also included in the figures in Table 5–4. Of the five engines listed, the emission-controlled diesel and the stratified-charge engines show promise for fuel economy competitive with 1970 gasoline engines. The feedback-controlled spark-ingnition engine with electronic fuel injection promises reasonable fuel mileage, because of its operation near stoichiometry, but will still suffer a 10–15 percent fuel penalty over 1970 engines. The dual-catalyst system proposed by most manufacturers will use about 25 percent more fuel than its 1970 counterpart; and the Wankel configuration, which seems most likely to meet the 1976 standards, will probably pay a fuel penalty of approximately 30 percent, due to its rich mixture ratio.

Exercise to illustrate the impact of possible use of a mix of engines and control systems

As mentioned earlier, the American automobile producers are by and large seeking to meet the 1976 requirements with a dual-catalyst modified carbureted piston engine across their car lines. However, it is quite unlikely that any single engine type or control system will prove suitable for all sizes and types of 1976 automobiles. Furthermore, several new low-emission engine configurations may well phase in to replace some of the carbureted piston engines. Clearly, phasing in of these various new engines and control systems and phasing out of the engines they replace will have an effect on sticker price due to the capital costs incurred. A computer simulation of the dynamics of such a process was carried out to determine the magnitude of this effect. Although any set of assumptions could have applied in this simulation, a set was chosen which leads to a relatively high impact on the industry, i.e., it phases out the present type engines very quickly. (It should be emphasized that the Committee does not consider such a drastic change to be probable.) The following are the assumptions used:

1. The modified carbureted piston engine equipped with an oxidation catalyst will be produced only in model year 1975 and no modified carbureted piston engine using catalytic control of emissions will be produced in model year 1976.

2. The Wankel engine will be introduced initially in the small cars (subcompact and compact) and subsequently will be developed in higher-horsepower versions for larger vehicles.

3. Diesel engines (4 and 6 cylinders) will be introduced for fleet-car usage by 1975. A V–8 Diesel will be introduced subsequently.

4. A limited number of stratified-charge engines (3-valve) will be introduced in 4- and 6-cylinder versions for small cars.

5. Gasoline engines with electronic fuel injection will be introduced by 1976 in 4-, 6-, and 8-cylinder versions in very large quantities.

Applying these hypothetical assumptions to the simulation model, the capital-investment impact on manufacturing facilities was then developed, as a sticker price increase. In the model, the aggregate American production was considered without identifying the specific producer. The car configurations were detailed down to the major components and subassemblies. These units were then scheduled in production in the proper sequence and at the proper time to yield the desired schedule using standard industry lead times. These numbers were developed giving due consideration to expected product life and normal industry amortization practices.

The expected sticker-price increases to return the capital investment in new production lines, old production-line tearup, assembly-line change, and new facilities were found to range (even with such a drastic change in engines and control systems in such a short time) from $8 to $150 per car.

ALTERNATIVE SYSTEMS FOR LOW-EMISSION AUTOMOBILES

The Committee also considered power systems other than Ottocycle gasoline engines. It became apparent quite early in this study that no alternative power system could be produced in sufficient numbers by 1975 or 1976 to displace an appreciable part of present engine-production quantities. Several power systems (e.g., Rankine, Stirling, batteries, fuel cells) show promise for eventually meeting 1976 standards, but development time and cost reduction are necessary before these can become competitive. Two engines (diesel and gas turbine) show promise of meeting 1975 emission standards. However, even though such engines have already been adapted to passenger cars, little development is being done on them for 1975 and 1976 because they are costly and have other detractive characteristics. The present diesel is heavy, tends to smoke, and its exhaust is odorous. The gas turbine has poor fuel economy at part load, and the NO_x emissions are not presently controllable to low enough levels.

Although it is unlikely that any alternative engine will be in appreciable mass production by 1975 or 1976, some of them will be phased in within the next decade. Thus, summaries of the findings concerning the various systems are given below.

Diesel engines

Recent data show that several current four-stroke, and one two-stroke, diesel engines can meet 1975 standards for carbon monoxide and unburned hydrocarbons. A typical NO_x value for a current Mercedes Benz 220D under the CVS–CH test is 1.65 g/mile. There have been no results obtained on diesel engines showing ability to meet the 1976 NO_x standard of 0.4 g/mile. Daimler-Benz estimates that the lowest NO_x levels achievable for diesels at the present state of the art would be about 0.8 g/mile.

New developments in diesel engines, such as a two-stroke engine with a new, low-emission combustion method, and the use of positive-displacement rotary prime movers, such as the Wankel-engine configuration, offer the future possibility of meeting, or nearly meeting, 1976 standards with an engine that is smaller and cheaper than the present (1970) gasoline engine. Much work must still be done to prepare even suitable prototypes of these concepts.

There is a good possibility that a diesel engine of sufficient power density, light enough weight, and emissions nearly satisfactory for 1976 automobiles can be built. But much engineering work must still be done before there can be a proven concept. Potential problems of smoke, white smoke, odor, and noise still remain. It appears that good single prototypes of the advanced engine will not be available before 1975. Limited production might be possible by 1980.

A passenger-car diesel engine designed according to existing technology may have a possible disadvantage in slightly greater weight and larger size over a spark-ignition engine of comparable output. It may cost more basically, but the difference shrinks when the emission controls for gasoline engines are added in, since the add-ons for diesels to meet 1975 standards are minimal. It will give better fuel economy and require less maintenance, which should quickly make up any first-cost difference. The efficient diesel will tolerate a wide range of fuels and becomes of greater interest as our concerns with energy conservation increase. Because fuel of lower volatility is used, diesel engines have an additional safety factor, and also there would be less fuel-vapor emissions at the filling station.

Gas turbines

Gas turbines are a feasible method of propulsion for standard-size U.S. passenger cars. In prototype form, they have demonstrated acceptable or superior weight, size, fuel consumption, driveability, maintainability, resistance to abuse and neglect, and safety. Carbon monoxide and hydrocarbon emissions are below the 1976 standards; NO_x emissions are presently above the 1976 limits, but several approaches have shown that it is technically feasible to lower NO_x to 1976 requirements especially for low-pressure-ratio engines. The concepts can probably be incorporated in a prototype by 1976. The added controls or costs of reaching 1976 NO_x standards are not yet known.

Gas turbines to date have all shown poor fuel consumption at low design power and while operating at low fractions of the design power. Highly regenerated units tend to limit the effect, but the possibility of economic gas turbines having design power below 150 horsepower and operating under lightly loaded conditions is still a controversial matter.

The retail costs of future gas turbines installed in automobiles are highly uncertain. Estimates made by various highly qualified individuals or organizations run from a price below that of the cleaned-up spark-ignition engine to one three or four times higher. These estimates are based on the use of materials similar to those in today's engines.

Future possibilities for gas turbines improve as the use of ceramics for many parts is proven. If ceramics become widely available for the hot parts of gas turbines, it is generally agreed that the engines would eventually cost less than the spark-ignition alternative. In addition, the employment of critical resources would be greatly reduced.

A realistic schedule for advanced gas turbines to be produced in quantity would be for advanced limited-production engines by 1982, followed by mass production by 1984.

Stirling engines

At the present state of development, Stirling engines are very efficient engines that could allow high-performance full-size automobiles to meet the 1976 emission standards. Any form of heat energy or fuel source can be used to operate it. The engineering problems that remain to be solved before it would be possible to adopt them as practical engines for limited application relate to the reliability of sealing the working fluid inside the engine, to the cost and reliability of the heater assembly, and to the development of a simple, versatile power-output control system. Considerably more engineering is necessary to allow the engine to be considered as an entirely suitable automobile power plant. Additional developments necessary to make this possible relate to cost, operation in the hands of the customer, and integration into the automobile. The two sets of problems are best attacked simultaneously and may involve changes in the present form of the engine.

The potential of the engine goes well beyond its present state. Size, weight, producibility, safety, response to abuse and neglect, starting ease, driveability and versatility, control ease, fuel economy, noise, emissions, and cost potential all show indications of being competitive with or better than diesels in the present generation of development, and equal to or better than gasoline engines in the next generation of development. Thus, the engine could fit into the auto industry, truck industry, and other segments of the transportation industry, independent of the eventual outcome of the energy crisis or the fuel controversy. Approximately 4 to 10 years of additional development will be reduced to solve the outstanding engineering problems and produce a prototype advanced Stirling engine suitable for present-type automobiles.

Electrically Driven Vehicles

Electrically driven vehicles in principle provide freedom from pollution and are characterized by high energy efficiency, flexibility of performance, good durability, and low maintenance requirements. At present, the limiting factor relating to the technical and economic feasibility of electric vehicles is the vehicular power source. Electric drive systems (motor and controls) having excellent characteristics have been demonstrated; development of optimal drive systems is not considered to be limiting in the ultimate realization of electric automobiles.

Fuel-cell-powered electric vehicles in which the free energy of fossil fuels is directly converted into electrical energy for motive power do not emit CO or NOx; unused hydrocarbons can be easily removed from the exhaust. Fuel cells are not heat engines and are not subject to the Carnot limitation. For this reason they may operate at very high energy-conversion efficiency, resulting in superior fuel economy.

Although some fuel-cell systems have been successfully deployed in space missions, these are not adaptable for applications where low cost is important. Current advanced developments directed toward stationary applications in commercial and consumer markets are in the field-test stage. These represent important cost reduction and performance improvements relative to the aerospace units. With further significant cost and performance improvements, vehicular applications in small quantities may become feasible within 10 to 15 years.

Vehicles that employ rechargeable batteries as a power source do not have emissions resulting from the combustion of fuels; the site of emission is transferred to central power stations where such emissions are understood to be more effectively controlled, and at a lower cost. Because of the high efficiency of batteries and of electric drives, the net fuel economy of such vehicles promises to be better than that of present antomobiles. Furthermore, if we move toward an electric economy, batteries may assume a unique role in the transportation system.

In contrast to fuel cells, extensive experience exists with respect to the performance characteristics of at least one battery system—lead/acid. This battery is rugged, efficient, reliable, and can respond instanteously to large changes in load. Presently available special-purpose vehicles can provide ranges of up to 50 miles and modest acceleration marginally acceptable under urban driving conditions, at a high cost. Other currently available rechargeable batteries, such as zinc/silver-oxide and cadmium/nickel-oxide, while superior in some respects to the lead/acid system, are inherently unsuitable for vehicular applications because of cost and/or limited availability of materials. Still other battery systems concurrently in various stages of development offer significant performance improvements, and may meet the cost and materials requirements for vehicular applications.

The zinc/nickel-oxide battery is expected to allow a vehicle design with acceptable acceleration and a range of about 80 miles between recharges.

The most promising of the advanced battery systems are sodium/sulfur and lithium/sulfur batteries, which operate at temperatures in the range 300–400°C, and are maintained at operating temperature by their reject heat and appropriate thermal insulation. These batteries are expected to have specific energies of 100 watt-hours/pound and specific powers of 100–200 watts/pound, permitting the design and construction of electric vehicles with excellent acceleration capabilities and a range of about 200 miles between recharges. About 7 or 8 years of

optimum effort will probably be required for the development of pilot quantities of these batteries for vehicle test purposes. Still other promising nonaqueous systems are in early stages of exploration.

Hybrid electric/heat-engine powerplants are claimed to enable reduction of the emission of air pollutants. The expected improvement in driveability by using the electric motor for power surges should allow the heat engine to operate cleanly and economically at one setting or with a slowly varying setting over a range. There are significant penalties in the areas of cost and complexity that must be overcome before the hybrid can be considered a viable contender. Even if the technical and economic criteria can be met, it is doubtful whether introduction of this new and complex power-plant scheme will represent any more than an interim solution with respect to pollution abatement and effective use of natural resources.

Rankine engines

Tests made on Rankine-engine components have shown that the 1976 standards could probably be met with Rankine-engine-powered, standard-size automobiles. Various approaches to the design indicate that Rankine engines can be made to fit into full-size automobiles. These findings are to be demonstrated with working units in real automobiles by 1975.

Engine noise promises to be low except for the condenser fans, which could be troublesome due to large air-flow requirements. Starting should be easy, although time-consuming (one minute being a practical estimate). The driveability of Rankine-powered automobiles should be satisfactory if a sufficiently high power-to-weight ratio can be achieved.

One full-size automobile has been fitted with a 150-horsepower steam engine. Emissions did not meet 1976 standards and there were other detracting features, which can be traced partly to the underdeveloped nature of the engine. Lower-power steam engines have been fitted into compact-size automobiles and demonstrated. Low power density is a general characteristic of these engines, traceable to poor efficiency.

Newer forms of Rankine engines that use organic fluids flowing through either reciprocating or turbine machinery offer the possibility of trouble-free operation (no freezing, easy starting) at the expense of poorer fuel economy as compared with steam. These units will be larger and more difficult to integrate than will steam engines.

The Rankine cycle in any version will tend to have relatively uniform specific fuel consumption over the operating range. This leads to reasonable fuel economy (but less than that of gasoline-powered automobiles of similar size) over typical driving schedules when steam, or the best organic-fluid, engines are considered.

To achieve an engine with reasonable fuel economy, the controls have to be complex and the engine has to be as large as possible within that allowable envelope. Thus, any Rankine engine will be pushed to the allowable limits on size, weight, and cost for a given application, and the automobile will be considerably underpowered and overpriced as compared with a gasoline engine in the same application. Despite its potentially good emissions, driveability, and low noise, most of the other realistic evaluation features for automobile engines (such as size, weight, cost, fuel economy, and starting time) are missed by the Rankine engine, independent of type.

It is problematic whether even limited production of full-power engines could be feasible before 1980. Limited production of existing designs for low-power applications could begin by 1976–77.

Major questions remain to be answered affirmatively with respect to safety, operability, reliability, and overall driving versatility in the hands of the public. Unit cost and the ability to be phased into production present even larger questions for which affirmative answers are lacking.

A suitable full-size, prototype Rankine engine will not be available until 1975 (EPA schedule). Development of a manufacturable prototype must follow this by several years, which must in turn be followed by normal development.

Other Engines

A wide variety of other engines with some potential advantage over the gasoline engine or diesel engine have been considered over the years. Most of these have not been developed even as far as the automobile gas turbine, Rankine engine, or Stirling engines. None of them seem to offer a clear-cut advantage in emissions over the other types, and they all offer some increase in complexity, weight, volume, and probably cost.

Systems using positive displacement machinery but with combustion taking place outside the cylinder (out-of-cylinder combustion systems) have been studied for engines operating on the diesel cycle, the Otto cycle, the Brayton cycle, and many variations. They all suffer from lowered efficiency, larger size, and probable high NO_x values. None of these systems appear to offer any basic advantage that cannot be achieved ultimately by diesels, gas turbines, and Stirling engines, all of which show promise of lower cost.

DISCUSSION

Introduction

As a result of the Clean Air Amendments of 1970, automotive and related manufacturers—both within and outside the United States—have embarked upon research, development, and manufacturing programs designed to meet the newly established emission standards for light-duty motor vehicles. As observed in the January 1972 report of this Committee, it is unfortunate that the automobile industry did not seriously undertake such a program on its own volition until it was subjected to governmental pressure. A relatively modest investment, over the past decade, in developmental programs related to emission control could have precluded the crisis that now prevails in the industry and the nation. The current crash programs of the major manufacturers have turned out to be expensive and, in retrospect, not well planned.

Nevertheless, the almost world-wide effort to achieve the federal emission standards set for the light-duty motor vehicles in the United States has produced a significant rate of progress toward meeting the requirements of the Clean Air Amendments of 1970. It is the very pace of that progress that complicates judgment today concerning the most appropriate course of action with respect to attainment of the standards required by that law.

As discussed in earlier parts of this report, several systems have been shown capable of attaining emission certification in 1975 model year cars. Among these are the diesel (discussed in Section 6.1) and the three systems discussed in Section 3.2 (the conventional engine with modification and oxidation catalyst, the Wankel with a thermal reactor, and the carbureted three-valve stratified-charge engine). While continued progress can be expected in development of all these systems, they do not possess equally desirable characteristics.

Several control systems in early states of development have met the 1976 standards at low mileage. Some of these represent further development of systems designed for certification and manufacture in model year 1975. Others are relatively new and their ultimate manufacture will require energetic commitment by the industry to further develop approaches that have been pursued only in smaller companies and at relatively low levels of effort. One system promises to be acceptable in use for the full 50,000 miles. Durability and other performance data are already available for that system. The future performance and acceptability of other systems—especially those currently being developed by the principal manufacturers—remain in doubt. In the following discussion, we shall briefly compare those systems that warrant consideration for certification and production in model year 1976.

Dual-Catalyst System

To date, the belated research and development programs of the major automobile manufacturers have been devoted almost entirely to the development and incorporation of such minimal modifications to the basic spark-ignition, internal-combustion engine as may be required to achieve certification in 1975 and 1976. This situation is a result of the short time between passage of the Act and the scheduled date of its enforcement, and the desire of the manufacturers both to protect their investments in the internal-combustion engine and to utilize their vast experience with this engine. The modifications made to achieve emission levels required by the 1973 federal standards represent just such continued development of the conventional engines of previous years.

To achieve the further reductions called for by the 1975 and 1976 standards, most major manufacturers currently plan to use catalysts in the exhaust stream to promote both oxidation of carbon monoxide and hydrocarbons and chemical reduction of NO_x. The CMVE believes that engines equipped with oxidation catalysts will be able to meet the certification requirements for model year 1975. At this time, no experimental engine modified to include the dual-catalyst system has exhibited the durability required to achieve compliance with the 1976 standards. Nevertheless, assuming a continuation of the intensity of the current effort, extrapolation of the rate of recent progress suggests that catalysts with the durability required by the 1976 standards will be developed. But it cannot be stated with certainty that such developmens will occur in time for 1976 production of automobiles.

Although American manufacturers and others evidently will be able to produce catalyst-equipped vehicles capable of certification for the 1975 model year, and even possibly capable of 1976 certification, compliance with the certification procedure, of itself, may not constitute indication of satisfactory performance of catalyst-equipped vehicles in actual customer use. As discussed in Section 4.2, the diverse conditions to be undergone by the engine and control systems during 50,000 miles of customer use are far more strenuous than those undergone during certification. These more strenuous conditions may result in significant damage to a catalyst. In view of the performance history of catalytic systems observed to date on experimental vehicles, under laboratory conditions, there is concern that there may be frequent catalyst failure under conditions of actual use well before a scheduled 25,000-mile replacement.

Admittedly, there has not been actual customer-like experience with catalytic systems that have met the 1975 or 1976 certification requirements, and these concerns may be overdrawn. Furthermore, failure in service of cars properly maintained and used will call into operation Section 207(c) of the Act, by which the manufacturer can be forced by EPA to remedy the deficiency at his own expense. Obviously, this concern would be relieved by either the expected early development of catalysts demonstrably more rugged and durable than those tested to date, or by remonstrably satisfactory performance, in conditions similar to customer use, of those catalysts now under investigation. Only one manufacturer has commenced such tests

with a few cars equipped with a single-catalyst system that have met with 1975 standards. Final judgment of the actual performmance of such systems must await experience.

Alternatives to the Dual-Catalyst Approach

In view of the fact that the dual-catalyst approach to a nonpolluting automobile power plant may not lead to a truly satisfactory long-term solution to the environmental problem, it is encouraging to note that promising alternative systems are under intensive investigation. Although some are only in the earliest stages of development, others are more advanced and promise to achieve 1975 emissions certification when utilized on smaller engines. These include the carbureted three-valve stratified-charge engine, the modified diesel, and the Wankel with thermal reactor. Each of these alternative systems is described below.

Carbureted three-valve stratified-charge engine

Prototype compact cars equipped with the carbureted three-valve stratified-charge engine have met the 1975 standards for 50,000 miles. Three tests on vehicles equipped with an advanced version of this system show average low-mileage emissions of 0.25 grams per mile HC, 2.50 grams per mile CO, and 0.43 grams per mile NO_x (see Table 3–11). This system should be capable of certification on small cars in time for model year 1976 production, and with adequate margin of safety for each of the three contaminants. This approach should also be applicable to larger engines, but sufficient experience is not yet available for evaluation.

A substantial degree of confidence can be placed in the estimation that the emissions performance of this engine in use will be quite close to its performance during certification. The maintenance required on the carbureted stratified-charge engine should be no greater than that required on a conventional 1973 engine. In fuel economy, this engine is comparable with a 1972 engine and much superior to a dual-catalyst-equipped 1976 engine.

Diesel engines

Emissions achieved by a current diesel-powered vehicle are 0.15, 2.5, and 1.65 g/mile for HC, CO, and NO_x, respectively, and this engine is certifiable for 1975 production. Further improvements are possible, but much innovative engineering work must still be done before the diesel can meet the 1976 standards. Limited production of adequately improved vehicles might be possible by 1980. Since the diesel would provide a significant fuel economy, even compared with 1972 engines, further development of the diesel warrants encouragement.

Wankel engines

As shown in Table 3–7, the Wankel engine with thermal reactor on a compact car has met the 1975 standards with NO_x levels of about 1 g/mile for 50,000 miles, but with a fuel penalty of about 30 percent compared with a 1973 equivalent piston engine. The use of EGR and richer carburetion can probably further reduce NO_x levels, but at the cost of even greater fuel consumption, and even so it is not yet certain that the 1976 standard for NO_x can be achieved.

Durability performance of the Wankel engine with thermal reactor on a compact car has been shown to be superior to that of the dual-catalyst system. However, temperatures experienced by the reactor during operation in the hands of the public should be somewhat higher during certain driving modes, and durability under such conditions has not been established.

Catalytic systems with feedback control

A system with three-way catalyst and feedback control (see Section 3.6) promises improvement over the dual-catalyst system. However, adequate durability data with respect to both the catalyst and the oxygen sensor are not available to make meaningful estimates of the performance of such systems either during certification or in use.

Feedback control of a dual-catalyst system would be expected to increase the life of the catalyst, reduce emissions, and significantly improve fuel economy. At this writing, such a system is not available but may be capable of development, though perhaps not in time for production in quantity in 1976.

Interim standards

According to the work statement agreed to by the EPA and the National Academy of Sciences, "Should the Contractor conclude that the attainment of emission standards on the schedule provided by Section 202(b)(1) of the Clean Air Act is not technologically feasible, the Contractor shall specifically determine technologically feasible interim emission levels to assist the Administrator in exercising his responsibilities under Section 202(b)(5) of the Act." However, the considerations that must enter into the determination of optimal technologically feasible interim standards are so complex and carry so many implications that, as explained below, it is inadvisable and inappropriate for this Committee to recommend a specific set of interim levels at this time.

It is not yet possible to make a definitive prediction with respect to which engine systems will achieve certification for 1976. The most likely candidate is the carbureted stratified-charge system on smaller engines. It is probable that others, particularly the dual-catalyst system, will also qualify at that time. It is conceivable that the projected automobile production for 1976 can be achieved only by a mix of engines, some certifiable and some (probably larger engines) not quite certifiable. However, while it is premature to judge the issue at this time, a rationale may later be required for upward adjustment of one or more of the standards to permit production of a sufficient number of vehicles of various sizes in 1976.

Examination of possible interim standards for the three pollutants is complicated by the fact that the technologically feasible levels of the three pollutants are interdependent. For several of the systems discussed, further decreases in NO_x can be achieved, for example by greater reliance upon EGR, but only by accepting higher levels of CO and HC. Thus, before selection of a particular set of interim levels as achievable, answers will be required to such questions as: Is it more important to reduce NO_x emissions than CO or HC? Or vice versa? Further, compact cars are capable of lower emissions than are standard or large cars with similar control systems, while consuming less fuel. What emphasis should be placed on significantly different levels of fuel consumption that are associated with the various control systems and vehicle sizes and the substantial possible impact on total petroleum requirements?

The Committee made no attempt to resolve these and related questions, as judgments regarding these matters were deemed to be beyond the scope of the study commissioned to the Academy and delineated by the EPA-Academy contract. Thus, at this time, the Committee finds it inadvisable to recommend a specific set of interim standards.

Effects of a Delay in Enforcement on Total Automobile Emissions

To illustrate the effects of various delays in implementing the emissions standards, should this be found necessary, a computer model was used to calculate total automotive emissions in a typical metropolitan area for the years from 1960 to 2000. This model accounted for factors such as vehicle age distribution among all automobiles, the decrease in vehicle miles driven per year per car as vehicle age increases, the predicted nationwide growth in vehicle population each year, the emission reduction achieved through crankcase blowby and evaporative-loss control, the effect of federal exhaust-emission standards, and deterioration of emission controls with mileage. Vehicle age distribution was taken from a national average automobile population, which is a reasonable distribution for many large urban areas. Urban driving was assumed in the model, and average emissions for urban driving were used. These emissions values were obtained from records for 1972 and older model-year cars. For cars built or to be built after the 1972 model year, the emissions values were based on various implementation plans.

Figures 7.1, 7.2, and 7.3 show the variations in emissions of HC, CO, and NO_x, respectively; these curves are normalized against the maximum for each contaminant. Four cases are represented in each set of curves:

1. Standards maintained at the 1973 levels indefinitely.

2. 1975 and 1976 standards implemented and met on schedule.

3. 1975 and 1976 standards each delayed one year—the maximum allowable under the law.

4. 1973 standards maintained through 1976 model year and 1976 standards implemented in 1977 model year.

The implementation of emissions controls since 1968 has already caused an appreciable reduction in annual emissions of HC and CO, but little reduction in NO_x. Federal standards for model year 1973 cars call for decreases of approximately 80 percent for hydrocarbons, 70 percent for carbon monoxide, and 50 percent for oxides of nitrogen, all measured in relation to the uncontrolled emissions of pre-1968 vehicles. As seen in the curves, were 1973 standards to remain in force, total emissions of hydrocarbons and carbon monoxide would continue to decline for some years, as would that of NO_x. Preponderantly, these effects reflect the removal from service of older uncontrolled, or less-well-controlled automobiles.

Implementation of 1975 and 1976 Standards and Related Matters

Of two promising candidates for certification and production in 1975 and 1976—the dual-catalyst system and the carbureted stratified-charge engine—only the former is planned for manufacture on a scale commensurate with expected requirements in those years. Even if durable catalysts became available, the dual-catalyst system would still have several undesirable characteristics, and more important of which are listed below.

1. The dual-catalyst system is expected to have poor fuel economy. Improvements in fuel economy could be obtained by the use of proper feedback control mechanisms, but these are unlikely to become available for production in 1975 or even 1976.

2. Dual-catalyst systems will have a higher initial cost, be more difficult to maintain, and be less durable.

3. Manufacture of vehicles equipped with single- or dual-catalyst systems in large numbers before sufficient experience with these devices under actual diverse consumer use is precarious.

Independent of whether each car must periodically pass inspection or whether the manufacturer is repeatedly compelled to exercise the recall provisions of the Act; if a large fraction of all cars markedly exceeds the emission standards, the entire rationale of this procedure becomes suspect.

4. The 1973 class vehicles when converted to 1975–76 systems can be expected to be more difficult to start, thus wasting some fuel and increasing emission of pollutants (although it should be possible to mitigate this situation by future technical improvements).

The circumstances recounted above—the probable certifiability of the carbureted stratified-charge engine under both 1975 and

1976 standards but its relatively limited planned production, particularly in 1975, and the considerable promise of other, as yet incompletely developed systems—make judgment concerning an optimal national approach to decision concerning the scheduled implementation of the 1975/1976 standards extraordinarily complex—precisely because the entire research and development aspect of this situation is very much in flux and changing rapidly.

Some members of CMVE are concerned that strict enforcement of the provisions of the Act might, by forcing adoption of the control system first to be developed and certified, defeat the goal of the earliest possible attainment of compliance by the most generally desirable means. These members of CMVE believe that, once having embarked upon large-scale production of the catalyst-dependent control systems, several years would elapse before major manufacturers would alter course in favor of producing more generally satisfactory vehicles. This would happen, it is thought, because it would be consistent with the tradition of the industry of slowly improving technology already in use rather than switch to a significantly new and different technology not yet tried on a mass scale. Further, there is concern that existing market mechanisms would not suffice to accelerate conversion to a substantially different technology at a pace consistent with the overall national interest.

A minority view within the CMVE states that: (a) only rigorous enforcement of the Act will assure the pace of continued progress toward the goals of the Act; (b) by the time 1975 cars are placed in production, the catalysts used in catalyst-dependent systems may prove decidedly more reliable than are those now available; (c) there is no assurance that the additional development time would not simply be employed by the major manufacturers for further development of the present systems; and (d) the presence on the market of even a small number of alternative control systems that are more reliable, cheaper, and accompanied by a lesser fuel penalty, if any, would constitute an effective market device, which, without other intervention, would assure changeover by the major manufacturers at an acceptable pace, particularly if the recall provisions of the Act are enforced as warranted.

The majority view of CMVE suggests that, on balance, it may be prudent for EPA to consider a delay in the imposition of 1975 and 1976 standards, but no longer than that provided for in the Act. It is thought that this would provide the manufacturers an opportunity to consider and implement alternative and, quite possibly, more generally satisfactory technologies with which to attain the goals of the Act. In this view, as shown in Section 7.5, such an action would not result in an unacceptable deceleration in reduction of automotive emissions.

In its work, CMVE became aware of a continuing controversy concerning the stringency of existing emission standards. Strongly held differences of interests and views surround all the major factors that affect the selection of automotive emission standards: the health effects of individual pollutants, their relation to ambient concentrations, the relationship of total emissions to primary and secondary ambient pollutant levels, the contribution of automobile usage to total emissions, and the possible relative reductions in emissions from stationary and mobile sources. Some of the issues posed by these considerations are resolvable only by further scientific research; all will require the attention of officials concerned with pollution control.

These matters are so complex and important that the Committee strongly urges an early and thorough reexamination by Congress, EPA, and the Academy of all aspects of motor vehicle pollution standards established in the Clean Air Amendments of 1970—their premises, underlying assumptions, the goals that were set, and the interplay among the three pollutants dealt with specifically in the Act. In the light of the material developed in its study, CMVE believes that such a reexamination would be extremely valuable in relating motor vehicle emission control to the many issues relevant to a sound national environmental policy.

Appendix A

Committee on Motor Vehicle Emissions

E. L. Ginzton, Chairman, Varian Associates, *Chairman.*

J. A. Hutcheson, Vice President, Westinghouse Electric Corporation (retired), *Vice Chairman.*

Sidney W. Benson, Chairman, Department of Thermochemistry and Kinetics, Stanford Research Institute.

Charles H. Elmendorf III, Assistant Vice President, American Telephone and Telegraph.

James A. Fay, Professor of Mechanical Engineering, Department of Mechanical Engineering, Massachusetts Institute of Technology.

Richard L. Garwin, IBM Fellow, Thomas J. Watson Research Center.

Irvin Glassman, American Cyanamid Professor of Environmental Sciences, Department of Aerospace and Mechanical Sciences, Princeton University.

A. J. Haagen-Smit, Professor of Biochemistry, Division of Biology, California Institute of Technology.

Harold S. Johnston, Professor of Chemistry, Department of Chemistry, University of California.

Arthur R. Kantrowitz, Director, AVCO-Everett Research Laboratory.

J. Ross Macdonald, Vice President of Corporate Research and Engineering, Texas Instruments Incorporated.

M. Eugene Merchant, Director of Research Planning, Cincinnati Milacron, Incorporated.

Edwin S. Mills, Professor of Economics and Public Affairs, Department of Economics, Princeton University.

Glenn C. Williams, Department of Chemical Engineering, Massachusetts Institute of Technology.

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John E. Nolan, Executive Director, Committee on Motor Vehicle Emissions, National Research Council.

Richard Barber, Legal Counsel, Committee on Motor Vehicle Emissions, National Research Council.

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Mrs. Emily J. McDonald, Administrative Secretary, Committee on Motor Vehicle Emissions, National Research Council.

Mrs. Ann Farrar, Secretary, Committee on Motor Vehicle Emissions, National Research Council.

Miss Betty Holland, Secretary, Committee on Motor Vehicle Emissions, National Research Council.

SPECIAL CONSULTANT

James E. A. John*, Head, Department of Mechanical Engineering, University of Toledo.

Appendix B

Panels of Consultants

EMISSION STANDARDS (PANEL 1)

Arthur C. Stern, Environmental Science and Engineering, School of Public Health, University of North Carolina, Panel Chairman.

Leslie A. Chambers, School of Public Health, University of Texas at Houston.

James Fitzpatrick, Environmental Analysts, Inc.

John A. Maga, Air Resources Board, State of California.

Richard M. Kamens, Special Assistant to Panel 1.

TESTING, INSPECTION AND MAINTENANCE OF VEHICLES (PANEL 2)

John N. Pattison, Civil Engineering Department, University of Cincinnati, Panel Co-Chairman.

R. Robert Brattain, Pebble Beach, California, Panel Co-Chairman.

Marian Chew, Chagrin Falls, Ohio.

Jack Gockel, President, Clean Air Research Company.

G. C. Hass, Air Resources Board, State of California.

William Scott, Scott Research Laboratories.

EMISSION CONTROLS SYSTEMS (PANEL 3)

(For spark-ignition internal combustion engines)

John B. Heywood, Department of Mechanical Engineering, Masachusetts Institute of Technology, Panel Chairman.

J. A. Bolt, Department of Mechanical Engineering, University of Michigan.

Ernest Jost, Materials and Electronic Controls Group, Texas Instruments, Inc.

Henry K. Newhall, Fuels Division, Chevron Research Company.

William A. Sirignano, Guggenheim Laboratories, Department of Aerospace and Mechanical Sciences, Princeton University.

Henry Wise, Stanford Research Institute.

David Wulfhorst, Cummins Engine Co., Inc.

ALTERNATE POWER SOURCES (PANEL 4)

John Bjerklie, Schenectady, New York, Panel Chairman.

Elton J. Cairns, Senior Scientist, Chemical Engineering Division, Argonne National Laboratory.

Henry J. Korp, Howell Corporation.

Charles Tobias, Department of Chemical Engineering, University of California.

David G. Wilson, Department of Mechanical Engineering, Massachusetts Institute of Technology.

Clarence Zener, University Professor, Carnegie-Mellon University.

Kurt H. Weil, Special Consultant to Panel 4.

MANUFACTURING AND PRODUCIBILITY (PANEL 5)

Maurice Nells, La Jolla, California, Panel Chairman.

Donald Bartlett, A. T. Kearney & Company, Inc.

George D. Clayton, George D. Clayton & Associates.

Merrill L. Ebner, College of Engineering, Boston University.

LeRoy H. Lindgren, Rath and Strong, Inc.

DRIVEABILITY (PANEL 6)

King D. Bird, Vehicle Research Department, Cornell Aeronautical Labs.

Leonard Segel, Highway Safety Research, Institute, University of Michigan.

ATMOSPHERIC CHEMISTRY (PANEL 7)

Edward Stephens, Statewide Air Pollution Research Center, University of California.

Lowell Wayne, Los Angeles, California.

CATALYSTS (PANEL 8)

James Wei, Allan P. Colburn, Professor, Department of Chemical Engineering, University of Delaware, Panel Chairman.

Robert Burwell, Department of Chemistry, Northwestern University.

Joe W. Hightower, Department of Chemical Engineering, Rice University.

David F. Ollis, Department of Chemical Engineering.

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*Professor John served as Executive Director of the Committee on Motor Vehicle Emissions from April 1, 1971 through August 31, 1972.

APPENDIX C

PERSONS, GROUPS, AND COMPANIES FROM WHOM THE COMMITTEE OBTAINED OR SOUGHT INFORMATION

In the course of its study, the Committee on Motor Vehicle Emissions obtained and sought out information from a wide range of sources in the United States and abroad. As previously reported (in the Committee's January 1972 Report), an initial invitation was extended to the public to submit information and comments in September 1971 (this invitation was later published by EPA in the Federal Register: 36 F.R. 23092). A follow-up invitation was sent by the Committee on June 28, 1972, to 31 individuals and environmental groups known, on the basis of their participation in EPA hearings, to have a special interest in the subject. A copy of this letter appears below, following a listing of those persons, groups, and companies from whom information was obtained during 1972.

Aerojet Liquid Rocket Company.
Air Products and Chemicals, Inc. (Houdry Division).
Air Quality and Automobile Emissions Conference.
American Cyanamid Company.
American Lava Corporation.
American Motors Corporation.
American Oil Company.
American Petroleum Institute Research Section.
Arbeitsgemeinschaft Verstaerkte Kunststoffe.
Arizona State Department of Health.
Arvin Company.
Atlantic-Richfield.
Audi NSU Motorenwerke.
Austin Tool Company.
Automobile Manufacturers Association.
Bendix Corporation.
BICERI, Ltd.
British Leyland Motors Corporation, Ltd.
British Railway Technical Center.
California Air Resources Board.
Carter Carburetor Company.
Caterpillar Tractor Company.
CAV, Joseph Lucas, Ltd.
CGE Marcoussis Laboratory.
Champion Spark Plug.
Chemische Werke Huels.
Chrysler Corporation.
Citroen.
Clayton Manufacturing Company.
Compagnie General Electrique.
Comotor.
Corning Glass Works.
Cummins Engine Company, Inc.
Curtiss-Wright Corporation.
Daimler-Benz A.G.
Degussa.
Detroit Diesel.
Deutsch Automobilgesellschaft.
Dresser Industries.
E. I. duPont deNemours & Company.
Electricity Research Center.
Electrochemical Society.
Englehard Chemical and Mineral Corporation.
Environmental Protection Agency.
Erren, Rudolp A.
Esso Research and Engineering.
Ethyl Corporation.
Fachverband Kohlechemie and Petrochemie.
Fiat, S.p.A.
Ford Motor Company.
Garret AiResearch.
General Electric Corporation.
General Motors Corporation.
Gould, Inc.
Gulf Research and Development Company.
Hamming and Dickinson.
Holley Carburetor.
Honda Motor Company, Ltd.
Humble Oil Company.
Imperial Chemical Industries.
Institute fur Kunststoff VerArbeitung.
International Harvester, Inc.
International Materials Corporation.
Isuzu Motors, Ltd.
Japan Catalytic Chemical Company.
Jersey-Alsthom.
Jersey Enterprises.
Johnson-Matthey, Ltd.
Kali-Chemie.
Kinergetics, Inc.
Kinetics Corporation.
Krauss-Maffei A.G.
Lear Motors.
Linde A.G.
M.A.N. (Maschinenfabrik Augsburg-Nuernberg, A.G.).
Matthey-Bishop.
Mazda Dealerships.
McCulloch Corporation.
Mercedes Dealerships.
MERDC.
Messerschmitt-Boelkow-Blohm G.m.b.H.
Mitsubishi Motors Corporation.
Mobil Oil Company.
Monsanto Company.
National Petroleum Refiners Association.
New Jersey Department of Environmental Protection.
New York City Department of Air Resources.
New York State Department of Motor Vehicles.
Nissan Motor Company, Ltd.
NLPG Association.
Noel Penny Turbines Ltd.
Northrop Corporation.
Oxy-Catalyst, Inc.
Paxve Corporation.
Perkins Engine Company.
Petro-Electric Motors, Ltd.
Philips Corporation.
Pratt & Whitney Aircraft.
Questor Automotive Products Company.
Ragone, Dr. David (AAPS)
Renault, Inc.
Revom, Inc.
Ricardo & Company Engineers, Ltd.
Robert Bosch, G.m.b.H.
Rolls Royce Motors, Ltd.
Scott Research Laboratories.
Technische Hochschule Aachen.
Technische Forschungsanstalt & Entwicklungsstelle.
Texaco Research Laboratories
Thermo Electron Company.
Thermo-Mechanical Systems Company.
Toyo Kogyo Company.
Toyota Motor Company. Ltd.
TRW Systems Group Corporation.
Union Oil of California.
U.S. Army Tank-Automotive Command.
United Stirling A. B. & Company.
Universal Oil Products.
Varta.
VEBA chemie.
Verein Deutscher Ingenieure.
VGW-VERBAND der Deutschen Gas und Wasserwerke.
Volkswagen.
Volvo, Inc.
Walker, Professor Joe.
Wankel Symposium of Society of Manufacturing Engineers.
Williams Research.
W. R. Grace & Company.
Zwick Company.

TEXT OF COMMITTEE LETTER OF INVITATION, JUNE 28, 1972, SEEKING INFORMATION FROM PUBLIC AND ENVIRONMENTAL GROUPS

As provided for in Section 202(c) of the Clean Air Amendments of 1970 (PL 91-604) the National Academy of Sciences is currently conducting a study and investigation of the technological feasibility of meeting the motor vehicle emissions standards prescribed in Section 202(b) of the law. This study, which is being conducted by our Committee, forms an integral part of the process by which the Environmental Protection Agency (EPA) Administrator rules upon requests for suspension of the applicable effective dates.

Since it commenced its work last year the aim of our Committee has been to secure the widest possible range of information and informed opinion. While we have sought out many sources of such information, we have also encouraged individuals and organizations to submit whatever material or comment they believe is relevant to our inquiry. On September 21, 1971, we circulated to several hundred groups, publications, and individuals an invitation to submit their views to the Committee. This invitation also appeared in the Federal Register.

As the Committee's study moves ahead we want to renew our invitation and extend to you and your organization another opportunity to provide us in writing with such information and comment as you may care to make with respect to the subject of our study, namely, the technological feasibility of meeting the statutory emissions standards on the schedule contemplated by the Clean Air Amendments. To be somewhat more specific, the Committee is now giving the bulk of its attention to the standards for oxides of nitrogen, for 1976 model-year vehicles. Of particular concern to the Committee are topics such as these:

What modifications can be made to the conventional internal combustion engine that would insure compliance with the 1976 standards? Can the requisite equipment be produced in sufficient quantity and on a reliable basis to satisfy assumed demand by 1976, taking into account design and engineering lead-time? How much confidence can be placed in the ability of such devices to meet the standard, not only at the time of production, but for the full required period of five years or 50,000 miles?

With one principal approach to meeting the 1976 standard calling for use of reduction catalysts, it is important to evaluate the confidence that can be placed in their durability and continued effectiveness in actual use. Can you supply any data or information relative to catalyst durability while in use on an automobile, other than that which was publicly submitted to EPA in the May 1972 hearings? If catalysts are unlikely to remain effective for the five year-50,000 mile period, how often will they have to be replaced and at what costs, how will the vehicle owner (or operator) know that his catalyst has lost its effectiveness, and how can the public be assured that ineffective catalysts are promptly replaced or recharged?

The objective of the Clean Air Amendments is to permit the production of vehicles in 1975 and 1976 that will meet the emissions standards for 50,000 miles or five years. Given what is known from durability data and other information, is it feasible to meet this goal without requiring some program of periodic inspection and maintenance? What methods exist to determine whether a vehicle in use meets the applicable emissions standards? If a vehicle is found to be emitting in excess of the allowable limits, is it practical to identify with sufficient precision the cause so as to avoid needless and perhaps costly maintenance?

Aside from the conventional spark-ignition internal combustion engine, what other power plants could be produced in sufficient quantity by 1976 (or 1977) that would satisfy the 1976 standards? What is known of their costs, operating efficiency, and other characteristics?

This listing of topics which are of concern to the Committee is by no means exhaustive. There are many other issues of importance and the Committee is guided solely by a desire to mobilize as much information and opinion as it can as it relates to the matter of technological feasibility of satisfying the motor vehicle standards as prescribed in the 1970 amendments. Consistent with this objective we invite you to submit such information or to offer such comments as you con-

sider pertinent to the subject of our inquiry. To be of use to the Committee your submission should be in writing and be received not later than August 4, 1972. All such materials should be sent to:

Committee on Motor Vehicle Emissions,
National Academy of Sciences,
2101 Constitution Avenue, NW.,
Washington, D.C. 20418.
Attention: Public Submissions.

Although we are sending copies of this letter to a substantial mailing list, we would urge you make this letter of invitation known to any person or group that you believe would be particularly interested in it. We would also suggest you might reprint this letter or portions of it in any newsletter or other publication of your organiaztion.

Signed by JAMES E. A. JOHN.

APPENDIX D

ANNOUNCEMENT PLACED IN FEDERAL REGISTER REQUESTING INFORMATION WITH RESPECT TO TECHNOLOGICAL FEASIBILITY

SEPTEMBER 9, 1971

An announcement was placed in the Federal Register concerning the appointment of a committee to determine whether the automobile industry is technologically capable of designing and mass-producing a reliable engine that will meet the motor vehicle emissions standards prescribed by the Clean Air Act Amendments of 1970.

SEPTEMBER 21, 1971

An announcement was placed in the Federal Register inviting public submissions of materials related to "technological feasibility" of meeting auto air emission standards.

JULY 6, 1972

An announcement was placed in the Federal Register requesting interested parties to obtain and fill out questionnaires concerning data or concepts on alternate engines for low emission automotive propulsion plants.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

SENATE RESOLUTION 41—PRIVILEGE OF THE FLOOR

Mr. STEVENSON. Mr. President, I ask unanimous consent that a member of the staff of the Committee on Commerce, Mr. Basil Condos, be permitted the privilege of the floor during the discussion of the Banking Committee resolution, Senate Resolution 41.

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

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

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

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The PRESIDING OFFICER. Under the previous order, at the conclusion of morning business, the Chair lays before the Senate Senate Resolution 41, which will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 41) authorizing additional expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with amendments on page 2, line 9, after the word "exceed", strike out "$660,000" and insert "$600,000"; in line 15, after the word "exceed", strike out "$320,000" and insert "$270,000"; and, on page 3, line 5, after the word "exceed", strike out "$210,000" and insert "$200,000"; so as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by section 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $600,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $270,000 shall be available for a study or investigation of—

(1) banking and currency generally;
(2) financial aid to commerce and industry;
(3) deposit insurance;
(4) the Federal Reserve System, including monetary and credit policies;
(5) economic stabilization, production, and mobilization;
(6) valuation and revaluation of the dollar;
(7) prices of commodities, rents, and services;
(8) securities and exchange regulations;
(9) credit problems of small business; and
(10) international finance through agencies within legislative jurisdiction of the committee.

SEC. 4. Not to exceed $200,000 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. Not to exceed $130,000 shall be available for an inquiry and investigation pertaining to the securities industry.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. CANNON. Mr. President, this resolution would authorize the Committee on Banking, Housing and Urban Affairs to expend not to exceed $660,000 during the next 12 months for inquiries and investigations.

During the last session of Congress, the committee was authorized to expend not to exceed $577,000 for that purpose. The committee estimates it will return approximately $39,808 of that amount to the Treasury.

The pending request includes an increase of $83,000 over last year's authorization.

The Committee on Rules and Administration has amended Senate Resolution 41 by reducing the requested amount from $660,000 to $600,000, a reduction of $60,000.

Senator SPARKMAN is chairman of the Committee on Banking, Housing and Urban Affairs and Senator TOWER is its ranking minority member.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. SPARKMAN. I have discussed this matter with the Senator from Nevada. I feel very strongly that a mistake is being made in connection with part of this resolution. There really are three parts to it, three different appropriations.

One appropriation we have been having for a good many years is to provide additional personnel for the principal committee, the standing committee. Another one that we had for a good many years is for a housing subcommittee, which has a separate appropriation and a separate staff and operates almost as a committee. The third is one that has been temporary, which we are phasing out, and that is the one dealing with, we might say, the ad hoc committee on securities.

The committee voted as a whole to ask for additional personnel. The vote was overwhelmingly in favor of it. I do not think it was unanimous. But the committee was unanimous in asking for the addition of six staff members, four to be professional staff, two to be clerical staff.

The request grew, largely, out of the things that have happened in so many committees this year—a request by the Republican side for additional staff members. Of course, the Democratic side wanted some additional staff members. Therefore, the committee decided upon two for each side—two that would be assigned to the minority, and two that would be assigned to the majority. Of the two clerical assistants, presumably one would be for each side. The Rules Committee allowed for half that number. At least, that is what it amounts to, because it allowed for half the amount requested.

There was also something having to do with the Housing Subcommittee, that I shall point our particularly. Our request was reduced there by $10,000. That $10,000, as is shown by my letter to the Committee on Rules and Administration, was specifically for the purpose of allowing us to carry on oversight activities, something we have not heretofore been able to do. I stated to the committee that last year we wanted to investigate very badly some of the reports concerning housing. We could not do it because we

did not have the funds. Someone suggested then that we ask for a supplemental. I said, "No. We are moving along toward the last of the year. In January we will ask for additional funds." The $10,000 was for that purpose. That amount has been cut out.

I have talked with the chairman, and he takes the position that the reduction was made because, although we showed in last year's application, and in the application of the year before, only seven employees for the Housing Subcommittee, this year we show that we have eight employees. That is correct. But we should have shown that in 1971 and 1972 we had a vacancy. In 1970, the record shows that we had eight employees.

What happened was this: After the adoption of the 1970 Reorganization Act, our committee was entitled to add two professional staff members and two clerical members. We did that. John Evans—who, by the way, has just been made a member of the Securities and Exchange Commission—was serving the minority, really as counsel, but was acting under the title of Assistant Clerk, because that was the only position in which we could place him. The Reorganization Act did permit us to name two employees.

I named John Evans as counsel for the minority, the title he should have had all along. That left a vacancy in the assistant clerk's position. He was a very efficient clerk. There was not much work for the professional clerk to do, but in order that the position might be filled, I transferred one of the employees of the Housing Subcommittee to the position of assistant clerk, but he was used to fill both positions.

I thought I was saving money—and I was—by so doing; but it left just seven employees. When we filed our application that year, we showed only seven employees, but that was the number of employees we had at that time. We should have showed that we had one vacancy.

As of July 1, 1972, our committee clerk retired. She had been with us for years. I named the assistant clerk as the committee clerk. Of course, that meant that she could not continue to do the housing work she had been doing, and I filled that place on September 1, 1972.

When I went before the Committee on Rules and Administration this year, I showed that we had eight employees, and that was correct. But because we had shown only seven the year before, we were denied the $10,000.

I think that was a mistake. It may have been a mistake on my part for not showing that a vacancy existed. I meant well in saving 18 months' salary. Sometimes I think that a person who runs a committee in a frugal manner is penalized. It is the one who spends everything he gets who receives what he asks for every year. We are being penalized $10,000 for having saved the Government some $25,000 during that year. This sum was requested specifically to permit us to do oversight that we ought to do on the many billions of dollars worth of interest that the Federal Government has in housing throughout this country. That is being taken away from us. We have eight employees, just as I showed we had when I submitted the request for funds this year, and I think the committee should restore it.

Let me say in all fairness to my friend, the chairman of the committee (Mr. CANNON), that I have discussed this with him and he does not feel he can act on his own because the committee as a whole voted for the cut. But he has said to me, and I want to see if I am correctly quoting him, that if we will go ahead with this and if we find we cannot do the oversight that we expect to do, then he would be receptive to a resolution later in the year seeking additional funds. Am I correct?

Mr. CANNON. Yes, the Senator is correct. The committee has consistently taken the position that if a committee finds that it cannot live within the budget approved by the Committee on Rules and Administration, we would be receptive to a proper showing. We have a number of problems. One problem is that every committee wants to increase the number of personnel; not every committee but almost all committees.

Mr. SPARKMAN. Not that subcommittee.

Mr. CANNON. But the entire Committee on Banking, Housing and Urban Affairs, as shown, proposed an increase of six people, even though part of its work was being phased out, and the investigation of the Securities Commission, which we approved earlier, has been reduced from a high of 13 personnel in 1971 to six at this time.

Mr. SPARKMAN. And I hope by the time we go ahead it will be phased out.

Mr. CANNON. I hope it is, but let me finish my response.

Mr. SPARKMAN. Yes.

Mr. CANNON. We are also confronted with the problem of furnishing space, and every committee now is just running over with people and no place to put them. We have one subcommittee that is authorized by the entire Senate and we have not been able to find space for them so far. So every time we see a proposed increase in personnel in the Committee on Rules and Administration we look at it and we see if we can by restricting the budget contain our future requirements for space, as well.

If the Senator finds he needs additional finances, we would be receptive and we have told the Senator from Nevada (Mr. BIBLE) the same thing. If that should occur we would be receptive because we want to cooperate in any way we can. We are trying to keep some of the basic problems under control and we are trying to look at the overall budgetary assistance. This would propose an increase of six people for the entire committee and an increase of some $82,000, as I recall, but we did make a recommended reduction of $60,000 in the requested increase, so there is an increase still there of $75,000.

Mr. SPARKMAN. First of all, let me say that I appreciate the Senator's statement. I know what he is talking about with reference to space because we have space problems. I have a space problem in my personal office and in the committee. However, I wish to say something else.

During the years I have been the chairman of the Housing Subcommittee, and that goes back to 1949, I never have asked for an additional appropriation. I have lived within the appropriation that the Committee on Rules and Administration set out. I have never asked for a dollar, and I believe the chairman will find, if he checks the record, that I have never failed a single time to turn back money that had been given to us by the Committee on Rules and Administration.

I do not like this idea of having to come back. I think it is an invitation to probably be a little more ruthless than one otherwise might be. I felt, in asking for that $10,000 increase in the Housing Subcommittee for oversight procedures that we were being just as frugal and reasonable as we could be.

No chairman of a committee has been more frugal in running his committee than I have been in the whole Committee on Banking, Housing and Urban Affairs, and particularly in the Subcommittee on Banking, of which I have been chairman since 1949. As I explained to the chairman, we had eight employees when the request was made. We have eight now. We had eight every time except for the 18 months in which we were saving the Government money by letting one person fill two jobs.

Let me say to the chairman that I will still be just as frugal as I can, but if the chairman feels he cannot grant that $10,000 now we will most likely be back. If we can operate without coming back, we will do it.

Mr. CANNON. Mr. President, may I suggest to my colleague that the proposed budget shows an increase for the general subcommitte of eight employees. We did not reduce that sufficiently to knock out eight new employees. There would be no reason at all that this one person from the Housing Subcommittee could not be put under the general listing and be one of those new eight employees requested by the general subcommittee.

Mr. SPARKMAN. I do not understand eight. We requested six. We took three off of the Securities Subcommittee, so it made a net of three.

Mr. CANNON. According to the information presented to the Committee on Rules and Administration, under general subcommittee, section 3, the figure was eight and the request for 1973 is 16, an increase of eight.

Mr. SPARKMAN. That is correct.

Mr. CANNON. Under the section 3 provision of the banking and housing resolution, that request represented $50,000 of a requested $148,000, so there is still a $98,000 increase allowed there.

There is nothing at all that would prohibit one of these employees from the Housing Subcommittee being carried under section 3 as though those increases were going to be put on.

Mr. BROCK. Mr. President, if the Senator will yield, the point is, where does the $10,000 cut come from and what can we do now? We cannot get blood from a turnip. These employees were requested because they are legitimately needed.

If I may inject this, I cannot accept the space argument. As a freshman, we made a study of space on this side, and we found that the average square-footage per Member of the Senate was 60 and the average square-footage per commit-

tee staff was 140. If we take a look at whether or not we are doing right for the Members of this body or doing right for the staff, we will find we have done ourselves ill in that regard. But, there simply is no fat in this matter for the transfer of the chairman's need in that $10,000

Mr. CANNON. May I suggest that this was the considered judgment of the Rules and Administration Committee. As I am aware, there were no dissenting votes, and the rules committee has the very unpleasant responsibility, I may say, of trying to keep these budgets in line somewhat, and this represented our best judgment. I, for one on the floor here, cannot accept action that is going to be contrary to that which the committee has authorized. I told the chairman of the committee if he feels he needs to come back, that presentation should be made to the committee, not to me or to the floor managers here for their determinaton.

Mr. BROCK. Mr. President, if the Senator will yield further, I have great sympathy for the difficult job he has. I have a complete understanding of how tough it can be, but I did not know there was going to be a meeting on this particular day. The Senator from Illinois did not. No one apprised me of the fact that the issue would be raised. Consequently, I do not think any testimony was presented in opposition to the proposed cut. I talked to the Senator from Kentucky (Mr. COOK). He said he supported the restoration of the budget when he found out what had happened, when it left us with two subcommittees with no staff for the majority on one side and no staff on the other. These are critical needs. We are caught in the vice that no one presented the case for us.

Mr. CANNON. I do not understand the statement that they were left with no staff. The Housing Subcommittee has 12 permanent staff members. Some have been changed to one person. Some have been given more by law. But under the Reorganization Act, there are 12 permanent staff members. In addition to that, under section 3 of the resolution, the general provisions of the act, in 1972 there were eight investigating staff people, and there is a request this year for 16.

In addition to that, the Housing and Urban Affairs Subcommittee, in 1972, had seven persons, and the request this year is for eight, and the Senator from Alabama and I have discussed that. The Securities Investigation Subcommittee had nine for 1972, and the request this year is six, a net loss of three.

This shows, according to my figures, the requested figure is to have 30 plus 12, making a total of 42 people for this committee and three subcommittees, and of those we have disallowed the request for $60,000. The budget was $83,000 over last year. That $60,000 permits an increase of $23,000 over last year, and there was a turnback, including the Securities Industry Subcommittee, of some $39,000.

Mr. BROCK. Of those 42, only five are professional for the minority and three supporting, so we have eight out of 42.

Mr. CANNON. That is not something for me to decide or the Senate to decide; that is between the committee and the chairman as to what the allocation is, because there seems to be a mistaken concept that the minority, by law, is entitled to one-third of the staff people. That simply is not the case. That is not the law and has not been established by precedents of the Senate.

The Legislative Reorganization Act states that there shall be six permanent staff people and six clerical people to a committee and states further that if the minority requests the assignment of two specific personnel on the permanent staff, that can be granted by request. That must be done, and they can remain until they are "attritered" away——

Mr. BROCK. What about the minority staff——

Mr. CANNON. I have not yielded.

These staff people have never been selected, so far as I know, on a partisan basis. That is the position that has been taken by the Rules and Administration Committee. Time after time and time after time thus far our professional people are hired to serve the entire committee, and not serve the majority or the minority. They are certainly made available on that basis. But under the Legislative Reorganization Act, if the minority requests it, they can be given two additional personnel, and that has to be done by vote of the committee, and these people can remain until "attritered" away.

Beyond that, the only other provision is that they can be assigned by the chairman, one clerical personnel to perform duties for the minority, as they see fit.

If we are going to go into the issue which has been suggested, that the minority is entitled to one-third of the professional staff and one-third of the clerical workers, and we are going to hire these people by their political affiliation, I would like to suggest a question. Who are going to be the people who are going to be fired when that is done? Professional people have been on the staffs for years, and the chairman inherits them from one Congress to another, and if he thinks they are not good, he will get rid of them, and if he thinks they are good, he is going to keep them. I am in that position now as chairman of the Rules Committee. I have not fired one single person since I have been on there. I do not know whether they are members of the majority or the minority party.

I do not think they should be so hired.

Mr. SPARKMAN. Mr. President, I agree completely with what the chairman has said. So far as these funds are concerned, the question of minority representation does not enter into it. The chairman will remember the testimony of the Senator from Texas (Mr. TOWER) with regard to the one-third question. In effect, he said the minority was satisfied, that they had 22 percent of the staff and got 30 percent of the funds. I had never known of any such calculation as that, because I never regarded them as being minority or majority, except that the majority has always had majority counsel. So far as the whole staff is concerned, there is no politics of any kind involved. Not only that; I want to go back to the Reorganization Act of 1946. It gives to the professional staff members what I think we might call permanence. So far as I know, during the 26 years I have been on the banking committee, I have never known of any chairman firing a single member of the staff and replacing him with someone of his own party; it did not matter whether the chairman was a Democrat or a Republican. We have respected the spirit of the act of 1946, and we still respect it.

In this particular case, the motion was made in the committee and was agreed to by the whole committee that there be four additional professional staff members, with two clericals, hired. That is where the six came in.

I am perfectly willing to rest on the statement that the chairman has made with reference to the $10,000 for the Housing Subcommittee. I feel very keenly that a mistake has been made there. And I do not think it would have been made ordinarily. We simply show the vacancy that was in existence on the committee in 2 years, last year and this year. But we did not do it this time. Furthermore, I want to say that I do not understand that the number of employees named here is a limitation on the number of employees that the subcommittee can have or even that the full committee can have under the resolution.

As I construe it, it is the number that we have on the payroll at the time. It is a guide. And it is suggestive as to what it would continue to be. However, I do not think it is final.

Mr. CANNON. Mr. President, the budget terms submitted list the number of people, and it shows the number of people eligible in the beginning of the year and the number of people budgeted. And we have only the number that we ask for, and that the number the committee requested and that a budget was submitted for. I would have to refer that to the Budget officer as to whether someone hires more people than shown.

Mr. SPARKMAN. I am not recommending hiring more. I never have. I have maintained it at eight throughout.

Mr. CANNON. I would say that the Committee on Rules and Administration is certainly aware of the fine work that the Committee on Banking, Housing and Urban Affairs has done in the past. I know that there are many complaints because of the housing situation. There are bound to be many more in view of the administration's position on this housing issue this year. I do not want to see investigative work undertaken because of some action that has been taken.

Mr. SPARKMAN. I am perfectly willing to rest on the statement the Senator from Nevada has made as to whether we are willing to administer it as frugally as we can. If we cannot get by, we will be back in.

Mr. CANNON. Mr. President, I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, I want to associate myself with the remarks of the Senator from Tennessee. We have nothing but sympathy for the chairman. And I listened with admiration to the way in which the chairman

has conducted the business of that committee. It may very well be that we were negligent in this case.

I certainly had no idea that the budget for the Banking, Housing and Urban Affairs Committee was in any danger in the Committee on Rules and Administration. If I had, we might have been able to do something. The Committee on Rules and Administration could not have known what the impact of this cut would be on the Banking, Housing and Urban Affairs Committee. It isn't only the impact on the subcommittee mentioned by the chairman. The impact is on two other subcommittees, the Consumer Credit Subcommittee and the Subcommittee on International Finance, of which I am the chairman.

The Senator from Tennessee can discuss the Consumer Subcommittee. I would like to say a word about the Subcommittee on International Finance. It is no secret that the dollar is under attack. The international monetary system is on the verge of collapse. It has been a long time since the Bretton Woods Agreement which established the postwar monetary system. The Smithsonian Agreement of 2 years ago has collapsed. The Banking Committee is now considering devaluation of the dollar. It has jurisdiction over the value of the dollar, upon which the monetary system is dependent.

The monetary difficulties we face can be traced in part to our trade deficit. This is the committee with jurisdiction over the Export-Import Bank.

Mr. CANNON. Mr. President, this committee was not staffed by approval of any budget from the Committee on Rules and Administration. It was staffed by the committee personnel we already had, a total of 12 permanent staff people based on the request this year for a total of 24. We had 24, and an additional 36 people last year. As to the subcommittees, no budget was shown for either the International Finance Subcommittee or the Consumer Subcommittee. They were staffed in the past, and they were staffed by the chairman with the people available from the staff.

I may say that the present budget that the Committee on Rules and Administration approved would even let the Senator increase the number of personnel.

Mr. STEVENSON. Mr. President, the increase approved by the Committee on Rules and Administration is $23,000, which would not even cover cost of living pay increases, let alone the additional staff for any of the subcommittees.

Mr. BROCK. Mr. President, will the Senator yield so that I might ask for the yeas and nays on the committee amendment while we have enough Senators present?

Mr. CANNON. I yield.

Mr. BROCK. Mr. President, I ask for the yeas and nays on the committee amendment.

Mr. CANNON. Which amendment?

The PRESIDING OFFICER. There are four committee amendments.

Mr. BROCK. Mr. President, I ask unanimous consent that the amendments be considered en bloc and voted on by a yea-and-nay vote.

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

Is there a sufficient number (Putting the question)?

The yeas and nays were ordered.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1973—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on House Joint Resolution 345, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HATHAWAY). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 345) making further continuing appropriations for the fiscal year 1973, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD, volume 119, part 5, page 5483.

Mr. JAVITS. Mr. President, reserving the right to object, and I will not object, I gather that the conference report has not yet been printed.

Mr. McCLELLAN. I believe the report has been printed.

Mr. JAVITS. I thank the Senator. I wanted to have a look at it.

Mr. McCLELLAN. Mr. President, this continuing resolution passed the Senate on February 26 with six Senate amendments. A conference was held with the managers on the part of the House of Representatives on February 27 and an agreement has been reached on these amendments.

The effect of the first amendment included in the bill by the Senate was to provide authority for the continuation of the activities financed in the foreign operations appropriation bill until April 30, 1973, rather than the date June 30, 1973, as passed by the House of Representatives. The Senate conferees were faced with a unanimous, adamant position on the part of the managers of the House of Representatives. The amendment had been agreed to in the Senate proposing a date of April 30, 1973, for foreign operations rather than June 30, 1973, in view of the fact that the Committee on Foreign Relations of the Senate had ordered reported a bill which would authorize appropriations for the balance of fiscal year 1973 for military assistance, foreign military credit sales, security supporting assistance, and assistance to Bangladesh.

The original appropriation bill for foreign assistance for fiscal year 1973, although it passed the House of Representatives and passed the Senate, was never sent to conference inasmuch as there was no authorizing legislation for these four programs. In view of the fact that the Committee on Foreign Relations of the Senate had ordered reported an authorizing bill for these programs, the Senate changed the date on the continuing resolution for foreign assistance programs to April 30, 1973.

In conference, the managers on the part of the Senate were advised repeatedly that the chairman of the Foreign Affairs Committee of the House of Representatives desired the continuing resolution to continue foreign assistance until June 30, 1973, the inference being clear that the House of Representatives had no intention to take any action on the bill which had been ordered reported by the Committee on Foreign Relations of the Senate. It was for these reasons that the Senate conferees receded, and language was included in the statement on the part of the managers of the two Houses that this action is taken most regretfully because of the present situation and attending circumstances, and this is not to be regarded as a precedent. It is not our intention to tolerate this practice in the future.

I am happy to report that the managers on the part of the House of Representatives were willing to accept the remainder of the Senate amendments so that the American Revolution Bicentennial Commission can proceed at the existing annual rate of $6,224,000 until June 30, 1973, and that section 102 of the Treasury, Postal Service, General Government appropriation bill, the preclearance amendment, which the Senate proposed be repealed, has been agreed to. The amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD) providing for four reports each year from the Office of Management and Budget on the impounding of funds was agreed to by the Conference Committee.

Mr. President, it is necessary that this continuing resolution be enacted into law if the operations financed in the Labor-HEW appropriation bill and foreign operations appropriation bill are to be continued. I urge the adoption of the conference report.

Mr. JAVITS. Mr. President, speaking now to the particular agreement which the Senator has just referred to, I wish for the Senate to have clearly in mind what happened.

For practical purposes, we will not have passed an authorization bill for foreign assistance for 2 years, and we are now operating and will operate until the end of this fiscal year on the 1972 statute.

The Committee on Foreign Relations considered a great many amendments attributable to changes in circumstances which have occurred since the 1972 bill, which is quite out of date, and I believe it is most regrettable that we should not be acting on the basis of law which is up to date, but rather simply avoiding the issue by harking back to a statute which is already out of date. It seems to me that as the foreign aid issue is one very much before us for reform and revision, this is particularly intolerable and unfortunate. Some excellent amendments were contained in the measure reported here by

the Committee on Foreign Relations, and as I say, I think it is most regrettable that this should have occurred.

Among those measures, for example, was an economy measure, a material scaling down of the ceiling on aid to Cambodia. There was recognition of the fact that we are now out of the struggle in Vietnam, whereas the 1972 legislation upon which we will be acting still assumes we are in the struggle in Vietnam. So, as I say, the bill is quite obsolescent, and it is, in my judgment, a very serious retrogression for those who wish the authority of Congress to be asserted to the full that we should have had to make this, in my judgment, highly unwise disposition of this particular matter.

I do not believe the matter should go unprotested. I would like first to say that the Senator from Arkansas (Mr. McCLELLAN) has informed me that Senator FULBRIGHT, who has led the effort to have an authorization bill with the new conditions, was himself in the conference, so I think Senator McCLELLAN is entitled to the gratitude of all of us for the inclusion of that point of view in the conference itself, though obviously it had no real effect on the other body.

I would appeal to all those in the country who want to see foreign aid modernized to help us to see that the same performance is not repeated respecting the authorization for fiscal 1974, which will be acted on, I would assume, within the next few months.

The other aspects of the matter, of course, is that the bill does nothing about the limitations on impoundment which I raised here yesterday by seeking to curtail the date of the whole continuing resolution, which the Senate turned down at that particular time, with the general argument made that it would be more appropriately raised on a supplemental.

I wish to give notice now, Mr. President, that it will be raised on the supplemental. I expect to raise it myself, or join with others to do it, but it will be done—and it may require a suspension of the rules, in which case we will seek such suspension—to apply a formula, and I believe there is a formula, by which, at one and the same time, Congress may have the right to assume that what it appropriates and what the President enacts into law or we enact over a veto will actually be utilized for the purpose for which we appropriate it, and that if there are to be rescissions, they will be made as provided by law, with respect for the integrity of the respective branches of government by applying to us for rescission; that the antideficiency law may be accommodated, as I believe it can be, by recognizing in the President the authority to suspend expenditure for a modest period of time until he can put the issue of rescission up to us, but not to, in my view, take the power of both branches into his own hands and effectively utilize the item veto, which we have constantly repudiated, by impoundment or by eliminating Government departments or Government functions without the utilization of the Reorganization Act.

I shall submit a formal amendment to that effect seasonably, so that Senators may study it. I hope there will be adequate cosponsorship, remembering that we will have to have a two-thirds vote. I believe the issue is a critical one for Congress, and there will be an opportunity for those who feel strongly on this issue, without the remotest disrespect for the Presidency—indeed, the President, I am sure, being a politician himself, will respect us as we respect him for standing up for what we believe in in terms of our own authority, just as he is standing so stoutly for what he considers to be his power, which I think should be challenged under the Constitution, respecting impoundment and the termination of Government activities authorized by law.

Mr. President, I realize there is absolutely no point in opposing this conference report. I have already stated that to Senator McCLELLAN. He has been most gracious in his personal courtesies to me in terms of debating the matter and respecting my point of view about it.

So I serve the necessary notice that we will make our fight upon the supplemental appropriation, which is due here within a few weeks.

Mr. BEALL. Mr. President, for the second time this week the Senate is engaged in a spirited debate regarding the future of the American foreign assistance program. Because I was participating in the Senate Commerce Committee hearings in New York on legislation designed to establish a National Institute of Marketing and Health, I was unable to actively participate in Monday's debate. Had I been present, Mr. President, I would have lent my support to efforts aimed at extending this important program to the end of fiscal year 1973.

Although the Senate-passed version of this bill called for a shorter extension, I am pleased that the conference committee had decided to continue this program through the end of June. I believe that this decision serves the best interest of the Agency for International Development as it seeks to develop and execute coherent programs. It should also serve to expedite congressional consideration of our foreign assistance programs for fiscal year 1974.

Mr. President, I also wanted to bring to the attention of my colleagues interesting information I recently was made aware of about the Agency for International Development.

In the fall of 1971, AID embarked on an accelerated and basic "internal" reform within the parameters of existing legislation. The primary objective was to improve AID's organizational structure, and in turn, its administrative efficiency, while continuing to reduce the size of the Agency's staff both in Washington and abroad.

When the reform plan was announced in January 1972, AID's Bureau for Program and Management Services was created as the primary vehicle to consolidate agencywide support services, to economically achieve more effective use of agency manpower, and to facilitate the simplification of policy and operating procedures. Management concepts and practices—many of which were brought from private industry—were employed to achieve a single result: a more efficient and more responsive foreign assistance institution.

During the past year, substantial progress has been made in achieving these objectives:

Organization plans for each of AID's 11 service offices were developed and implemented in collaboration with the offices and bureaus to be serviced; and a client-oriented substructure was introduced into each.

Systems were fashioned and implemented whereby separate and simplified procedures provided personnel and management services on a more uniform, sensitive, and economical basis.

Controls are presently being employed to streamline and improve office procedures, and to insure that the channels of responsive communication between clients and offices are established and maintained.

The synthesis of this effort, therefore, has been the improvement of the style of managing projects, manpower, and systems through the initiation of methods which establish objectives, gauge productivity, and measure results against goals. However, Mr. President, there is no better example of the effect of this year-old management-result orientation than the manpower reductions achieved by AID. In fiscal year 1972, AID's full-time staff was reduced by almost 1,800—an overall reduction of over 13 percent, and the largest single annual percentage reduction in the Agency's history. Despite this significant accomplishment, AID's Bureau for Program and Management Services undertook a still more intensive review of Agency requirements, and projects than an on-board total of 10,800 can be realized for June 30, 1973—1,000 fewer people than originally targeted for the end of the current fiscal year.

I believe it is extremely timely to note, Mr. President, that concepts of Government administration which President Nixon has discussed so often; namely, improved management practices and the efficient delivery of services at the lowest cost to the taxpayer—are successfully ongoing in AID's Bureau for Program and Management Services. Improvements such as these further enhance AID's ability to be more responsive to basic human needs, support President Nixon's international economic policies, and serve the national purposes of the United States.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreement to the conference report.

The report was agreed to.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

The Senate continued with the consideration of the resolution (S. Res. 41) authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations.

The PRESIDING OFFICER. The ques-

tion recurs on agreeing to the committee amendments, en b.oc, on Senate Resolution 41.

Mr. BROCK. Mr. President, I would like to address some of the points that were raised in the previous debate on this matter. I am sympathetic to the position of the chairman of the Committee on Rules and Admir.istration. I am also aware of the enormous diligence, ability, and willingness to hold down costs of the chairman of the Committee on Banking, Housing and Urban Affairs, Mr. SPARKMAN.

Let me cite some relative figures.

The Banking Committee budget is $600,000. There are 42 employees.

The Committee on Government Operations has a budget three times as large, or $1,800,000, with 88 employees.

The Committee on Labor and Public Welfare has a budget of $1,700,000, with 87 employees.

The Committee on the Judiciary has a budget over six times as large, $3,900,000, with 210 employees.

Yet we have an enormous range of activities in the Committee on Banking and Currency. Let me cite some of them. We have had a great deal to do with wage and price controls, phases I, II, and III; the Federal Reserve System; domestic monetary credit policies; international economic and monetary policies; devaluation; emergency loan guarantees; the Small Business Administration; FDIC; banking regulations; and the Securities and Exchange Commission. We have the enormous obligation in housing which affect virtually every family and community in the country. We have the consideration of mass transit; disaster loans; Export-Import Bank; consumer credit, and similar legislation.

To be more specific, the jurisdiction of the Consumer Subcommittee is enormous. Its obligations are tremendous. The National Commission on Consumer Finance has submitted its report with 81, or 85, as I remember, specific recommendations which represent 3 years of diligent and effective staff work. That has to be studied and it has to be responded to in the interests of the consumers of this country.

I simply cannot accept a cut which to my knowledge was made without any argument at all—certainly with no foreknowledge on my part, or of the other Members who have been directly affected. When we are talking about trying to save the taxpayers' money, how pennywise and pound foolish can we be to save money in terms of staff personnel for the Senate, which serves the people. This is the branch of Government which is supposed to be responsive and the instrument of reform in this country.

We are dealing with a $250 billion national budget. That is not an inconsequential amount of money. When we talk about the banking industry, and wage and price controls, devaluation, consumer credit, and we have a budget of $600,000, is that an inordinate request to deal with the magnitude of problems in the interest of the people of this country?

I simply cannot understand the logic of saying that the International Finance Subcommittee should have no majority support, no staff, and the Consumer Subcommittee should have none either.

Mr. STEVENSON. Mr. President, I was a member of the Committee on Labor and Public Welfare, which has a highly competent staff, and as the Senator has indicated, a budget of $1,700,000, almost three times the budget for the Banking Committee. By what logic can it be said that the jurisdiction of the Committee on Labor and Public Welfare is three times as important or has three times as much work as the Banking Committee?

I was a member of the Labor and Public Welfare Committee in the last session and served as chairman of its Subcommittee on Migratory Labor. I was assigned five full-time staff members. I am chairman now of the Subcommittee on International Finance of the Banking Committee. Under this budget, I will receive no staff.

What is the jurisdiction of the Subcommittee on International Finance? It is concerned with the international monetary system which is on the verge of collapse.

Yesterday, the Banking Committee held hearings on dollar devaluation. Last year, the United States ran a trade deficit of $6.2 billion.

What is the jurisdiction of the Subcommittee on International Finance? It covers the Export-Import Bank, trade expansion, that may very well be the largest bank in the world now. Its total credit exposure is over $16 billion. I shall not have any professional staff members on that subcommittee to oversee the Export-Import Bank if this budget stands.

Concern in the country is mounting about the trade deficit. It is mounting over the collapse of the international monetary system and, I might add, it is also mounting over the impotence of Congress. The Congress is bleeding from self-inflicted wounds. This budget cut would be another such wound. How can such a cut help this body act responsibly on questions of the highest importance; namely, trade expansion, and reform of the international monetary system?

On the contrary, what this cut will do, if it stands, will be to deprive not only the Subcommittee on International Finance, not only the Banking Committee, but also the whole Senate of staff expertise on those questions.

Mr. CANNON. The thought occurs to me, if this is so important, and these subcommittees which we now hear are so important right here on the floor, why was not it all presented to the committee when the budget came up for consideration, by the Banking Committee? There was not one iota of information in that budget to indicate that there was any proposed additional staffing needed. We have three committees covered. Certainly out of all those people we have on the committee, I would think we would be able to provide the services required, rather than worrying about whether we have one man assigned to a specific person for a specific subcommittee.

Mr. BROCK. The reason we did not go into any of the subcommittee allocations is that the staff of the Banking Committee, under the chairman, is a fine, very able and expert staff and they have been carrying on additional responsibilities. But the point the Senator from Illinois (Mr. STEVENSON) is making is that there was no one on the subcommittee who has competence in this particular field. No one on the subcommittee was designated to serve in that capacity. That is what we are asking for, because that is the way to operate.

Mr. STEVENSON. The resolution, section 3, provided originally for $320,000 for devaluation, reevaluation of the dollar, international finance and for agencies within the legislative jurisdiction of the committee. The Banking Committee has jurisdiction over monetary matters and over the Export-Import Bank. I had no idea that the frugal budget of the Banking Committee was in any danger. Had I known that, I would certainly have come before the Rules Committee and made my case. This is the first chance I have had to make my case for the Subcommittee on International Finance. That subcommittee in less extreme circumstances, and less urgency, has always had a professional staff. I have talked with the two preceding chairmen of that subcommittee, the Senator from Minnesota (Mr. MONDALE) and the Senator from Maine (Mr. MUSKIE), and they had staff in times which were not so urgent as now.

I have nothing but sympathy for the chairman. He has to contend with such problems as this in every one of the committees of the Senate. He could not have known about the impact of these cuts on the Banking Committee. And we did not expect such cuts in a very modest budget.

Perhaps I was negligent in not taking my case to the Rules Committee. If so, it does not alter the impact of these cuts on the Banking Committee.

Mr. BROCK. This is the essence of the argument. None of us feel any different about this matter. The other members of the committee, Senators TOWER, Chairman SPARKMAN, and Senator COOK, who is on the Rules Committee, all support our efforts. We were not aware there was any jeopardy involved here. This was a relatively small amount of money, but it has an enormous impact.

We will be delighted to present our case to the Rules Committee. We simply had no opportunity before. Here, we are asking for the judgment of the Senate to protect the public first. Sixty thousand dollars is cheap money to spend in terms of making the Members of this body more effective and responsive to public service.

Mr. STEVENSON. It is not only the problem of international finance, but on housing programs which are in disarray. Homeowners are suffering. Costs to the taxpayers are soaring. And here we debate whether to increase the budget for the Housing Subcommittee by $10,000. The Housing Subcommittee, in extraordinary circumstances, is trying to undertake a major, in-depth, comprehensive review of the administration of housing programs and of the concepts embodied in those housing programs. The potentials for human welfare, for the saving of tax dollars, are very large. That $10,000 investment in the Housing Subcommittee could be returned—and would be returned—may, many times over, and so would the full $60,000.

Mr. CANNON. I point out to the Senator that Senator SPARKMAN, the chairman of the committee, was satisfied with the assurance given by the chairman of the Committee on Rules and Administration.

Mr. BROCK. On that $10,000, I think there was a misstatement.

Mr. STEVENSON. I have talked with the chairman, and he supports me and Senator BROCK wholeheartedly. He said he was satisfied with the $10,000 for the Housing Subcommittee. He is not satisfied with zero for the chairman of the International Finance Subcommittee nor with zero for the ranking member of the Subcommittee on Consumer Credit.

The PRESIDING OFFICER. The clerk will state the committee amendments.

The assistant legislative clerk read as follows:

On page 2, line 9, after the word "exceed", strike out "$660,000" and insert "$600,000"; in line 15, after the word "exceed", strike out "$320,000" and insert "$270,000"; and, on page 3, line 5, after the word "exceed", strike out "$210,000" and insert "$200,000".

Mr. CRANSTON. Mr. President, I should like to speak briefly on behalf of this amendment. I think it relates to the general problem of the legislative branch of our Government dealing effectively with its responsibilities, with the problems for which its committees and its members are responsible, covering and watching over and implementing them to the best of their ability, vis-a-vis the executive branch and its superior staff in terms of size. That size leads to a staff with highly equipped people guiding the administration in its work.

I feel that in the particular areas where this amendment would enhance the staff of the Committee on Banking, Housing and Urban Affairs, it is very important to give this assistance. For example, in the field of international finance, we have the tremendous problem of the dollars, the gold outflow. The sums involved in all this, the sums at stake, are far in excess of the paltry amounts requested in this amendment. I hope, therefore, that the amendment will be supported.

Mr. HATHAWAY. Mr. President, I want to add a word or two in support of the position taken by the Senator from Tennessee (Mr. BROCK) and the Senator from Illinois (Mr. STEVENSON). I think most of the points have been made.

I want to point out that it is very difficult for Senators, especially those from large States, to supply their own staff to help them out on subcommittee work. It is almost impossible, because they are grossly understaffed. They would have to carry on the work of their subcommittees—in this case, the International Finance Subcommittee of the Banking Committe—without any staff at all. The staff of the Banking Committee is much smaller, as was pointed out, than that of other comparable committees.

It has been pointed out by the Senator from California (Mr. CRANSTON) that we are in the midst of a battle with the Executive, with the Executive having a far greater staff than we have in Congress, in general. I think we would be remiss in our obligation to the people to carry out and, hopefully, win this battle with the Executive by not supporting more staff for this committee. I hope the amendments are rejected.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. BROCK. I thank the Senator from California and the Senator from Maine. I am very grateful for their remarks.

I point out that to sustain the position of the Senator from Illinois and the Senator from Tennessee, the vote would be "no." To support the position of the chairman, in opposition, the vote would be "aye."

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. CRANSTON. I want to make clear that I was speaking, as was obvious from my remarks, in behalf of the Brock-Stevenson amendment. I was not speaking in behalf of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc. 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. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) are necessarily asbent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "nay"

The result was announced—yeas 28, nays 60, as follows:

[No. 26 Leg.]

YEAS—28

Allen	Ervin	Nunn
Bible	Fong	Pastore
Burdick	Griffin	Pell
Byrd, Harry F., Jr.	Hart	Randolph
Byrd, Robert C.	Hartke	Ribicoff
Cannon	Hatfield	Scott, Va.
Cook	Huddleston	Symington
Cotton	Inouye	Talmadge
Eagleton	Jackson	Williams
	Magnuson	

NAYS—60

Abourezk	Brooke	Fannin
Aiken	Buckley	Gurney
Baker	Case	Hansen
Bartlett	Chiles	Haskell
Bayh	Church	Hathaway
Beall	Cranston	Helms
Bellmon	Curtis	Hollings
Bennett	Dole	Hruska
Bentsen	Domenici	Hughes
Biden	Dominick	Javits
Brock	Eastland	Kennedy
Mansfield	Moss	Sparkman
McClellan	Muskie	Stafford
McClure	Nelson	Stevens
McGee	Packwood	Stevenson
McGovern	Pearson	Taft
McIntyre	Proxmire	Thurmond
Metcalf	Roth	Tunney
Mondale	Schweiker	Weicker
Montoya	Scott, Pa.	Young

NOT VOTING—12

Clark	Humphrey	Percy
Fulbright	Johnston	Saxbe
Goldwater	Long	Stennis
Gravel	Mathias	Tower

So the committee amendments were rejected en bloc.

The PRESIDING OFFICER. The resolution is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the resolution. (Putting the question.)

The resolution (S. Res. 41) was agreed to, as follows:

S. RES. 41

Resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $660,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $320,000 shall be available for a study or investigation of—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production, and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within legislative jurisdiction of the committee.

SEC. 4. Not to exceed $210,000 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. Not to exceed $130,000 shall be available for an inquiry and investigation pertaining to the securities industry.

SEC. 6. The committee shall report its findings, together with such recommendations for leigslation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution,

to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

REHABILITATION ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 7, which the clerk will state by title.

The assistant legislative clerk read the bill (S. 7) by title, as follows:

A bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments.

In the table of contents, on page 2, after "Part C—", strike out "Innovative" and insert "Innovation", and in the table of contents, on page 3 after the line beginning "Sec. 705.", insert "Sec. 706. Appropriations for fiscal year 1973.".

On page 12, line 23, after the word "and", where it appears the second time, insert "as specifically set forth in"; on page 17, line 5, after the word "less", strike out "than" and insert "that"; on page 20, line 2, after "1974", insert and a comma and "and the succeeding fiscal year."; in line 10, after "$75,000,000", insert "each"; in line 11, after "1974", insert a comma and "and the succeeding fiscal year."; on page 38, line 3, after the word "individualized", insert "written"; in the same line, after the word "rehabilitation", strike out "written"; on page 41, line 20, after the word "the", strike out "two" and insert "three"; on page 43, line 14, after "(a)", strike out "(1)"; on page 46, at the beginning of line 20, change the section number from "20" to "200"; on page 47, line 6, after the word "appropriated", strike out "$30,000,000" and insert "$20,000,000"; in line 9, after "$80,000,000", insert "each"; in line 9, after "1975", insert a comma and "and the succeeding fiscal year."; on page 48, line 15, after the word "In", strike out "any" and insert "the fiscal year ending June 3, 1973, and in any subsequent"; on page 49, line 6, after the word "for", strike out "any" and insert "the fiscal year ending June 30, 1973, and in any subsequent"; in line 23, after "June 30,", strike out "1973" and insert "1974"; on page 54, line 8, after the word "appropriated", strike out "$35,000,000" and insert "$17,500,000"; in line 10, after "$45,000,000", insert "each"; in line 11, after "1975" insert a comma and "and the succeeding fiscal year."; in line 15, after "July 1,", strike out "1977" and insert "1978"; on page 56, line 17, after the word "appropriated", strike out "$30,000,000" and insert "$15,000,000"; in line 19, after "$40,000,000", insert "each"; in line 20, after "1975", insert a comma and "and the succeeding fiscal year."; on page 66, line 14, after the word "appropriated". strike out "$50,000,000" and insert "$25,000,000"; in line 15, after "1973", strike out "$125,000,000" and insert "$75,000,000"; in line 16, after "1974", strike out "and $150,000,000" and insert "$100,000,000"; in line 18, after "1975", insert a comma and "and $150,000,000 for the succeeding fiscal year."; in line 22, after the word "than", strike out "$10,000,000, in each such" and insert "$5,000,000 in the fiscal year ending June 30, 1973, and $10,000,000 in each such subsequent"; on page 67, line 5, after the word "of", strike out "$10,000,000 to be available for each such" and insert "$5,000,000 to be available for the fiscal year ending June 30, 1973, and $10,000,000 for each such subsequent"; on page 68, line 2, after the word "handicapped", strike out "individuals" and insert "individuals"; on page 70, line 10, after "$2,000,000", insert "each"; in line 11, after "1975", insert a comma and "and the succeeding fiscal year."; on page 72, line 5, after "$7,000,000", insert "each"; in line 6, after "1975", insert a comma and "and the succeeding fiscal year."; on page 75, line 10, after "$30,000,000", insert "each"; in line 11, after "1975", insert a comma and "and the succeeding fiscal year."; on page 77, line 25, after the word "appropriated", strike out "$25,000,000" and insert "$15,000,000"; on page 78, line 2, after "$25,000,000", insert "each"; in line 3, after "1975", insert a comma and "and the succeeding fiscal year."; in line 23, after the word "appropriated", strike out "$10,000,000" and insert "$7,500,000"; on page 79, line 1, after "$30,000,000", insert "each"; in line 2, after "1975", insert a comma and "and the succeeding fiscal year."; on page 82, line 14, after the word "the", strike out "two" and insert "three"; on page 83, line 20, after the word "the", strike out "two" and insert "three"; on page 91, line 8, after the word "title", strike out "$75,000,000" and insert "$45,000,000"; in line 9, after "1973", strike out "$100,000,000" and insert "$75,000,000"; in line 10, after "1974", strike out "and $150,000,000" and insert "$100,000,000"; in line 11, after "1975", insert a comma and "and $150,000,000 for the succeeding fiscal year,"; in line 12, after the word "which", strike out "15 per centum, 25 per centum and 25 per centum of the amounts appropriated in the first, second, and third such fiscal year, respectively," and insert "15 per centum in the fiscal year ending June 30, 1973, and 25 per centum in each such subsequent fiscal year,"; in line 20, after the word "title", strike out "$50,000,000" and insert "$35,000,000"; in line 21, after "1973", strike out "$75,000,000" and insert "$50,000,000"; in line 22, after "1974", strike out "and $100,000,000" and insert "$75,000,000"; in line 23 after "1975", insert a comma and "and $100,000,000 for the succeeding fiscal year."; on page 96, line 5, after the word "individuals", insert "and handicapped individuals with limited English-speaking ability"; on page 102, line 2, after the word "appropriated", strike out "with" and insert "such"; at the beginning of line 6, strike out "$2,000,000" and insert "$1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each such subsequent fiscal year,"; on page 105, line 6, after "(1)", strike out "and"; on page 107, at the beginning of line 17, strike out "purposes of this title $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975." and insert "carrying out the purposes of this title, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 each for the three subsequent fiscal years, and there is further authorized to be appropriated $300,000 each for the fiscal year ending June 30, 1973, and for the three subsequent fiscal years for carrying out clause (6) of section 601."; on page 108, line 24, after the word "or", strike out "higher);" and insert "higher):"; on page 109, line 1, after the word "Affairs", strike out "and"; in line 2, after the word "Welfare", insert a comma and "and the heads of such other Federal departments and agencies as the President may designate."; in line 9, after the word "Chairman", insert a comma and "and the Chairman of the Civil Service Commission shall serve as Vice-Chairman,"; and, at the top of page 120, insert a new section, as follows:

APPROPRIATIONS FOR FISCAL YEAR 1973

SEC. 706. The paragraph entitled "Social and Rehabilitation Services" of chapter IV of the Supplemental Appropriations Act, 1973 (Public Law 92-607) is amended by striking out "section 103" and inserting in lieu thereof "section 110" each place it appears and striking out "section 104" and inserting in lieu thereof "section 120".

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on S. 7, the pending business.

The yeas and nays were ordered.

ORDER THAT SENATE CONVENE AT 11 A.M. ON TUESDAY, MARCH 6, 1973

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I ask unanimous consent that when the Senate convenes on Tuesday next, it meet at the hour of 11 o'clock a.m.

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

ORDER TO CONSIDER SENATE RESOLUTION 69, TO AMEND RULE XXV TUESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the special orders and the business conducted during the morning hour are all disposed on Tuesday, the Senate then turn to the consideration of Senate Resolution 69, a Senate resolution to amend rule XXV relative to open and closed session of committees.

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

ORDER TO VOTE ON TUESDAY, MARCH 6, 1973, AT 4 P.M. ON SENATE RESOLUTION 69

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on final passage of Senate Resolution 69 the vote occur at the hour of 4 o'clock on Tuesday next.

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

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR McGOVERN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the order for the recognition of Senators that has already been entered—to be precise, following the remarks of Mr. CHURCH—the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes, to be followed by the distinguished Senator from South Dakota (Mr. McGOVERN) for not to exceed 15 minutes.

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

Mr. ROBERT C. BYRD. 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.

AMENDMENT OF RULE XXV RELATIVE TO OPEN AND CLOSED SESSIONS OF COMMITTEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in line with the previous unanimous-consent granted relative to open and closed sessions of Senate committees, that there be a limitation of 30 minutes on amendments, motions, and appeals; the time to be divided between the assistant majority leader, Mr. ROBERT C. BYRD, and the minority leader or whomever he may designate.

Mr. SCOTT of Pennsylvania. Mr. President, just for the RECORD, I will designate the Senator from Delaware (Mr. ROTH), who is in opposition on this subject.

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

The text of the unanimous consent agreement reads as follows:

Ordered, That on Tuesday, March 6, 1973, at the conclusion of the morning business, the Senate proceed to the consideration of S. Res. 69, a resolution to amend rule XXV relative to open and closed sessions of committees, and that time on any amendment, debatable motion or appeal be limited to 30 minutes, to be equally divided and controlled by the Senator from West Virginia (Mr. Robert C. Byrd) and the Senator from Delaware (Mr. Roth): *Provided*, That a vote on the resolution shall occur at 4:00 p.m.

REHABILITATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 7) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabiilties, and for other purposes.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRANSTON. Mr. President, there is no need for me to elaborate on the bill at length. I think we all understand the basic purposes of the bill. Its substantive provisions are contained in S. 8395, which was unanimously passed by Congress last fall but later pocket vetoed by the President.

INTRODUCTION

Mr. President, before we turn to the reported bill, S. 7, I wish to express my deep gratitude to the chairman of the Subcommittee on the Handicapped, the distinguished Senator from West Virginia (Mr. RANDOLPH), for his enormous assistance and leadership on this legislation. In the last Congress, he requested that I serve as acting chairman of the subcommittee for the purpose of consideration of the legislation to extend the Vocational Rehabilitation Act, which expired on June 30, 1972. I am privileged to continue to carry these responsibilities in this Congress at Senator RANDOLPH'S request.

Also providing great input and leadership in the drafting and movement through committee of this legislation was the distinguished Senator from New Jersey (Mr. WILLIAMS), the chairman of the full Committee on Labor and Public Welfare. He has been of outstanding assistance.

This bill is a truly bipartisan one. The contributions of the Senator from Vermont (Mr. STAFFORD), the distinguished ranking minority member of the Subcommittee on the Handicapped, and those of the Senator from New York (Mr. JAVITS), the able ranking minority member of the full committee, have been most substantial and their cooperation and bipartisan spirit have been indispensable to our efforts.

Mr. President, I also wish to note my appreciation for the great work of the staff members representing these Senators: Bob Humphreys on behalf of Senator RANDOLPH; Lisa Walker on behalf of Chairman WILLIAMS; Roy Millenson on behalf of Senator JAVITS and the committee minority; Mike Francis on behalf of Senator STAFFORD, and Mike Burns and Jon Steinberg who have worked with me.

SUMMARY OF PROGRAMS

BASIC PROGRAM

Mr. President, this is the major piece of legislation affecting handicapped individuals in the United States. Over the 4 years of authorized programs in the bill, as reported, there are authorized to be appropriated $4,854,250,000 in order to carry out the seven titles of the bill.

In fiscal year 1972, approximately 1,110,045 disabled persons were served by State vocational rehabilitation agencies, and the Rehabilitation Services Administration in HEW reports that 326,138 of them were considered to be rehabilitated. This is not an insignificant achievement if these figures can indeed be verified, but even this number of successful cases must be taken in the context of the estimated 7 to 12 million handicapped individuals in the Nation who have not realized their vocational potentials.

With the level of funding authorized in the reported bill, rehabilitation services could be provided to a total of approximately 5½ million handicapped individuals over the next 3 fiscal years, using today's per case cost.

This would mean adding 2.36 million handicapped persons who, at today's spending level, would not be served.

But, even then a great deal more—just in the case of quantity—needs to be done. But that is not the principal thrust of this bill. Even with full funding of the appropriations levels authorized for the next 4 fiscal years—3 for the basic State grant program—the committee recognized that there will not be available sufficient funds to serve anywhere near the numbers requiring vocational rehabilitation, as well as those for whom a more independent life, although no vocational goal, is possible. Thus, the thrust of this bill, in terms of the basic vocational rehabilitation program, is to require that far more individuals with severe handicaps be served than at present.

Mr. President, the crucial thrust of the title I program in the reported bill is to eliminate the creaming and shift the focus to harder cases in order to serve individuals with more severe handicaps. It seemed clear to us that, generally, in order to carry out this new priority for serving those with the most severe handicaps, more funds would be required if we are not going to experience a severe cutback in the numbers of handicapped individuals helped by this program. Because of this and because the estimates of the total number of handicapped individuals requiring vocational rehabilitation services range from 7 to 30 million, for these two reasons, we authorized $800 million for the basic State program—$560 million is now being expended, $610 million has been appropriated—for this fiscal year.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

In recognition that the final goal of all rehabilitation services must be to better the lives of the individuals served, this bill places particular emphasis on a method of providing services, through a requirement of an individualized written rehabilitation program, which will be responsive to individual needs, and will insure that no individual will be excluded from the program merely because his handicap appears to be too severe.

The committee bill, in further recognition that a productive and financially independent life is of primary importance, insures that no individual may be excluded from vocational training, counseling, and related rehabilitation services aimed at a vocational goal without thorough and detailed evaluation of his rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he has concluded beyond a reasonable doubt that a vocational goal is not appropriate.

CLIENT ASSISTANCE PROJECTS

The belief of the committee is that a client advocacy system is needed to serve all vocational rehabilitation projects and programs in order to provide clients and

client applicants with the opportunity to achieve a fair shake from the system. Such a system was provided for in last year's Senate-passed bill.

After a great deal of consideration, a compromise was reached in the House-Senate conference on H.R. 8395 on this provision—section 112 of the reported bill. There are now authorized in the bill between 10 and 20 client assistance projects with up to $2.5 million in fiscal year 1973 and up to $5 million in fiscal years 1974, 1975, and 1976 available from special projects and demonstrations appropriations under section 305 of the bill. Most significantly, however, the bill earmarks no less than $1 million in each of these fiscal years for the purpose of establishing these client assistance projects.

If these client assistance projects prove themselves to be useful and effective in improving the sensitivity and responsiveness of projects, programs, and facilities, a system of client assistance should be established to serve all programs under the State plan, as was provided for in the Senate bill last Congress.

Mr. President, we intend to watch very closely the administration of these new projects and expect the Rehabilitation Services Administration to devote substantial time and energy to designing the most appropriate and effective client assistance projects possible, and to consult with and keep closely advised the appropriate congressional committees.

RESEARCH AND TRAINING

In addition, the committee bill places greater emphasis on research and on the development of innovative rehabilitation techniques, equipment, and devices which will ameliorate the effects of handicapping conditions and make employment more feasible for handicapped individuals with the most severe handicaps. By increasing funding and authority available for these purposes, and giving statutory responsibility to the Commissioner of the Rehabilitation Services Administration for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, the committee bill seeks to place greater emphasis on expanding and improving the provision of services to handicapped individuals, with particular emphasis on the needs of more severely handicapped individuals.

This new title III in the reported bill includes special emphasis on the establishment of Rehabilitation Engineering Research Centers which would seek to apply the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, including the design, development, and production of suitable equipment and devices. It is a crime, in my judgment, Mr. President, that this country so wealthy in technology and so rich in scientific achievement has made only the most minimal use of this science and technology for the benefit of handicapped individuals.

Many European countries have developed and made available to handicapped individuals far more sophisticated orthotic and prosthetic devices, as well as other mechanisms and devices for handicapped individuals, than are generally available here. Moreover, although there may be isolated instances where certain rather sophisticated mechanisms have been produced and made available to enhance the living and employability of handicapped individuals, these advances are generally available only to a few and there is no central agency charged with responsibility for developing, producing, and disseminating these devices throughout the country.

I believe that our science and technology belong to all Americans. That is one of the reasons I strongly support the space program. I believe that our science and technology should not be withheld from those less fortunate who because of their handicaps cannot take full advantage of much of the technology we take for granted. There are millions and millions of such Americans—perhaps 30 million—and I think that simple justice requires that we give them the benefit of a more independent, self-sufficient, and remunerative existence.

That is what the bill's provisions seek to do by establishing the new Center for Technology Assessment and Application and earmarking 15 percent in fiscal year 1973 and 25 percent in the next 3 fiscal years for the establishment of Rehabilitation Engineering Research Centers to be coordinated by the Center for Technology Assessment and Application.

Also, Mr. President, more focus and expanded authority, under the RSA Commissioner, is provided in the committee bill to attempt to meet the enormous need for the training of specialized personnel to serve in the programs authorized by this bill, as well as other programs serving handicapped individuals. The hearings have illustrated a very dramatic shortage of such rehabilitation manpower. The bill places special emphasis on the need to train bilingual individuals so that bilingual/bicultural barriers and problems, which limit drastically the effectiveness of vocational rehabilitation services to persons whose primary language is other than English, can be dealt with and hopefully overcome.

TARGETED PROGRAM

The committee bill also responds to the need for services within certain target populations—including spinal cord injured individuals, those suffering from end-stage renal disease, severely handicapped deaf, deaf-blind, and older blind individuals and handicapped migrants—for whom services are presently inadequate, by providing in title III of the bill, in addition to broad authority for demonstration and special projects, special Federal categorical programs to serve these persons. These programs are described extensively in the committee report.

GOVERNMENTWIDE PROGRAMS

The committee bill also deals comprehensively with problems such as discrimination in Federal employment and Federal grants, elimination of architectural barriers, and the coordination and improvement of programing to, and dissemination of, information for handicapped individuals, problems which because of their complex nature and wide-ranging effects cannot be dealt with only by the Rehabilitation Services Administration, but have a profound effect on the provision of relevant and effective services. To meet these needs, a number of agencywide and executive branchwide special programs are established in titles V and VI of the bill.

Mr. President, the committee report (No. 93–48) includes a detailed summary and discussion of provisions of the reported bill and a section-by-section analysis, which I believe will be helpful to a full understanding of the vital measure before us.

I ask unanimous consent, Mr. President, that appropriate excerpts from the report be printed in the RECORD at this point, and I wish to point out that due to a printer's error the material on page 47, beginning with the second full paragraph, through the end of page 49 is misplaced and should appear at the bottom of page 50 in the discussion of title VI, and that the material beginning with the second full paragraph on page 43 through the end of the third full paragraph on page 46 is also misplaced and should appear on page 47 after the first full paragraph.

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

[Excerpts from Committee Report 93–48]

DISCUSSION

SUMMARY OF PROVISIONS

1. Comprehensive services to handicapped individuals

(*a*) A separate authorization of appropriations is provided for providing comprehensive services for individuals whose handicaps are more severe. Vocational rehabilitation services are those services which contribute to gainful employment; comprehensive rehabilitation services include all vocational rehabilitation services and other services which may be necessary to enable more severely handicapped individuals to live more independently and self-sufficiently.

(*b*) Provisions have been included in the State plan requirements to ensure that first priority is given to serving those individuals with the most severe handicaps.

(*c*) An important procedural provision has been included in the Committee bill requiring an individualized written rehabilitation program be drawn up for every handicapped individual served, and be drawn up in consultation with that individual. The counselor is required to explore every means for establishing a vocational or job-oriented goal for each individual, and to specify fully in the written program the reasons why this was impossible if he finds beyond a reasonable doubt that the individual cannot realize a vocational goal.

2. Research and training

(*a*) The Committee bill provides a statutory basis for the RSA, and provides that all authority for carrying out of functions under titles I, II, III and IV of the Act shall be administered only by the Commissioner of RSA. In addition, the bill sets up within RSA a Division of Research. Training and Evaluation, and within that Division a Center for Technology Assessment and Evaluation; the Division is assigned at least 10 professional positions to carry out purposes related to research, training and evaluation.

(*b*) The bill places a great deal of emphasis on applied research and the development of technology and devices to aid in solving rehabilitation problems of handicapped individuals. Besides the general research authority, the bill directs RSA to es-

tablish and operate Rehabilitation Engineering and Research Centers in order to aid in the development of this technology. In addition, for the first time, telecommunication, sensory, and other technological devices are specified as services under the basic vocational rehabilitation program.

(c) A program of international research and exchange of personnel and technical assistance is also included so that the United States may more fully make use of the many scientific and technological applications that have been made overseas.

3. Other provisions

(a) The Committee bill includes special programs for spinal cord injury, end-stage renal disease, severely handicapped deaf individuals, deaf-blind and older blind individuals, and an earmarking of money under special projects for migratory agricultural workers.

(b) The Committee bill creates a Federal Interagency Committee on Handicapped Employees (and directs it to undertake an affirmative action program for hiring in each Federal agency), an Architectural and Transportation Barriers Compliance Board, a National Commission on Transportation and Housing for Handicapped Individuals, requires affirmative action in employment of handicapped individuals in employment under Federal contracts, and prohibits discrimination against qualified handicapped individuals under Federal grants.

NEED FOR LEGISLATION

The Committee, after careful consideration of the hearing testimony and a review of the present RSA program, concluded that substantial legislative changes are necessary. The Rehabilitation Services Administration and the states which provide 20 per cent of the funds for the program are not reaching those who are in the greatest need of rehabilitation services. During the hearings in the 92d Congress, and the subsequent hearings held on the legislation in the 93d Congress, the Committee heard varying estimates of the numbers who could benefit from rehabilitation services in the United States. Administration witnesses placed the number at near 7 million individuals. Other witnesses claimed the total to be as high as 12 million. The actual numbers, or even an accurate approximation, is not known, and the Committee believes that such data must be collected as soon as possible.

Whichever figure is accepted, it is known that rehabilitation agencies last year reached only slightly more than one million handicapped people, and about 325,000 of those were classified as having severe handicaps. The Committee saw the need for definite legislation which would not only provide more service for more people, but give a priority to those who most need the services, those with severe handicaps.

The focus of the Committee is very much on that group, and the burden of reaching them has been placed squarely on the rehabilitation agencies throughout the bill. Giving RSA direct statutory authority for the first time is aimed at creating greater accountability for the way in which the program is carried out.

The Committee also found that there was a large segment of the handicapped population that could not be served under the present program parameters due to the fact that no vocational goal could be achieved, or might not seem achievable at the time the individual attempts to enter the program. The Committee feels a strong responsibility to see that these individuals do receive the services that they need, particularly that maximum efforts are made to develop a vocational goal for them. The bill attempts to achieve these objectives, by stressing services to the more severely handicapped individuals and providing, under a separate authority, for services for individuals for whom a vocational goal is not initially possible.

INTEREST OF THE BILL

The key to the intent of the bill is the Committee's belief that it will provide for more services for more handicapped individuals while at the same time providing more services to those individuals whose handicap is more severe. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as some specialized programs to aid those with handicaps that need more attention than the basic program can provide. Additionally, the Committee has added provisions designed to focus research and training activities on making employment and participation in society more accessible.

SHORT TITLE

The short title of the bill, the "Rehabilitation Act of 1972", expresses the new thrust of the bill in that, for the first time, those individuals who apply for services need not have a vocational goal in order to be served. The bill allows entrance into the program for those whose eventual vocational outcome may not be clear when they first apply, or whose eventual goal may be only a more independent life style. While the Committee expects and mandates in the Act that the program will remain vocationally oriented, it does believe that there are handicapped individuals whose handicaps are so severe, or because of other circumstances, such as age, that they may never achieve employment. The Committee feels that they should not be denied services. Providing service to such individuals may have the eventual outcome of freeing other members of the handicapped individual's family to return to employment, with a resultant gain in tax revenue and a rise in the standard of living of the family.

In addition, it should be noted that S. 7 continues to carry in its title the words "of 1972". This is to remove the technicality—which the Committee has protested vigorously to HEW—relied upon by the administration to withhold $50 million appropriated for the basic state grant program in the Supplemental Appropriations Act, 1973 (P.L. 92-607). That Act's appropriation item refers to the "Rehabilitation Act of 1972", and, by retaining this title for the legislation embodied in S. 7—which is, of course, virtually identical to the provisions of H.R. 8395—, enactment of S. 7 will overcome the technicality and automatically activate the $50 million now held not to be legally available.

DECLARATION OF PURPOSE

The Committee agreed that there should be a well-defined declaration of purpose contained in the law. There is not now such a provision. In general terms it spells out the programs that are authorized under the bill and provides a summary of the purposes the Committee wishes to be carried out under the subsequent provisions by RSA.

REHABILITATION SERVICES ADMINISTRATION

In the course of the hearings, the Committee heard overwhelming testimony to the effect that RSA should have a statutory basis. S. 7 provides for that basis. It is the opinion of the Committee that if the Commissioner of RSA is to be called upon to answer for the effectiveness of the rehabilitation programs carried out under the bill, he should have direct authority to administer them. The Committee intends to place the responsibility for carrying out titles I, II, III, and IV solely in the RSA Commissioner. The Committee has given the Commissioner many new responsibilities, especially in the area of research and training, that he does not now have. It is felt that the overall programmatic emphasis will be strengthened by placing this responsibility within RSA. The Committee also expects that being given this new authority and a statutory basis, as well as an authorization for 60 more personnel to carry out these functions, RSA will be far more accountable both to the public and the Congress.

With full authority over the research, training and innovation grants and contracts, RSA should be able to provide a firm direction for such programs toward easing the burden of handicapping conditions, especially severe handicaps.

In order to provide for the experience and expertise needed for an effective and innovative research and training program, the bill requires a new Division of Research, Training, and Evaluation within RSA and within that division a new Center for Technology Assessment and Application, headed by an Assistant Commissioner of RSA. It is the Committee's intent that this Division and its Assistant Commissioner will serve as the focal point for research and development and training funds under this Act and that he will be held responsible for the redirection of research priorities. It is expected that the Assistant Commissioner will cooperate and coordinate his programs with other agencies in HEW and if need be stimulate competition to obtain the best results. It is not intended that the productive interface of social services programs should suffer with the placing of the research and development and training authority for RSA in this Assistant Commissioner.

ADVANCE FUNDING

The Committee recognizes that in order to have more efficient programs and prudent planning, it is desirable to have advance funding made available for the program. The Committee feels that this is a most desirable feature and hopes the administration will request and the Appropriations Committee will approve appropriations on an advance funding basis.

DEFINITIONS

The Committee chose to consolidate all of the definitions that are operative throughout the bill in one section. Most of them have not been significantly changed from present law, but there are several departures that should be noted in order better to understand the philosophy of S. 7.

Consistent with changes the Committee has made in the operation of the basic state program for the provision of vocational rehabilitation services, the Committee has emphasized in the definition of handicapped individuals that the program is expected to serve those individuals who have substantial handicaps to employment as long as there is a reasonable expectation that they can benefit from the provision of services. While existing law conditions the provision of services on a reasonable expectation that the individual will be rendered fit to engage in a gainful occupation, the Committee believes that a change is needed in this part of the definition. The bill thus extends services to individuals who may not, at the time of evaluation, have a vocational goal for two reasons: because the individual may be brought to a point, through the provision of services, where a vocational goal is then possible; and because many of the services available through the vocational rehabilitation program will enable individuals without a vocational goal to live more independently. The Committee believes that the definition in existing law is too limiting, making the assumption that no change will occur over time. This limitation can operate to exclude many handicapped individuals who could greatly benefit from the program, and often denies services to those individuals most in need.

The Committee is very clear in its conviction that individuals who have severe handicaps can and should have vocational

goals, and that maximum effort must be expended to provide these individuals with a broad range of services to enable them to realize this potential. A new definition has, therefore, been added defining certain "severe" handicaps as those which generally require "multiple services over an extended period of time." The Committee is cognizant of the fact that it may take greater effort to set up a rehabilitation program for these individuals, and it fully expects rehabilitation counselors to make this effort.

However, the Committee, in changing the definition of handicapped individuals, has recognized that there are handicapped individuals who may not have a vocational goal due to the severity of their handicap. Their age, or other factors, but who can greatly benefit from rehabilitation services. While emphasizing that every effort should be expended to provide services to individuals so that they may reach a vocational goal, the Committee also believes that individuals can benefit from comprehensive services which will enable them to live more independently and to be more self-sufficient. For this reason, the Committee has defined comprehensive rehabilitation services to mean vocational rehabilitation services and any other service provided with funds under titles II, III or IV of this Act which will make a substanttial contribution in helping a handicapped individual improve his ability to live independently or function normally with his family and community.

The bill defines, for the first time, evaluation of rehabilitation potential, including all those services which are contained in section 15 of the existing law as mandatory services under the basic programs to be provided to handicapped individuals.

The definition of Federal share is changed from existing law. While the Committee has retained the Federal share at 80% under Part B for the basic formula grant program, the Federal share for Part C, Innovation and Expansion Grants, as well as title II, Comprehensive Rehabilitation Services, has been set at 90%. The Committee believes that this additional support from the Federal Government is needed in order to assist the States to expand their services and provide opportunities for individuals whose handicaps are more severe. Unless otherwise specified in the bill, the Federal share is 80%, except for construction grants where the Committee has retained the matching requirements of existing law. (See section 301(b)(3) in the "Section-by-Section Analysis".)

Finally, the Committee points out that it has included Indian tribal organizations, or a combination of such organizations, in the definition of local agency.

TITLE I. VOCATIONAL REHABILITATION SERVICES

Part A of title I includes all of the administrative provisions for the rest of the title. This insures that the funds and programs for all persons who are served under title I are treated in a uniform fashion.

State Plans

Part A of title I includes all of the administrative provisions for of which is unchanged or only slightly changed from present law. As in present law, a single State agency must be designated, unless the State has a separate State agency for the blind, in which case such separate agency would be designed to administer that part of the plan which deals with the blind. The bill requires that the basic State agency selected must be primarily concerned with the rehabilitation of handicapped individuals or with education or vocational education needs. Further, the plan must provide for the required State participation in the funding of the program before the Federal share can be released.

The State plan must set forth priority of selection of individuals for services and must show that those with the most severe handicaps will be served first. It is the Committee's strong feeling that this priority should not, in light of the increased appropriations authorizations contained in the bill, lead to any significant diminution in the number of individuals who are being served in the program under present law.

The bill also provides in the State plan requirements that the Commissioner of RSA shall establish priorities for services and that the order of priorities in the State plan shall not be inconsistent with such prescribed national order. It should be noted that the Committee, in giving RSA greater control over, and therefore accountability for, establishing these priorities, does not intend to permit this agency to place any greater emphasis than at present on services to handicapped welfare recipients, except on the basis of reimbursement through welfare funding under the Social Security Act.

The Committee intends that as many individuals as feasible are to be provided with vocationally-oriented services. The Committee has included a provision in the State plan requirments which specifies that the State provide satisfactory assurances that vocational rehabilitation efforts for comprehensive services shall not be utilized until maximum efforts have been made to obtain assistance, in part or entirely, from such other sources as Medicare, Medicaid and social service programs under the Social Security Act, and local and State programs similar to such programs. The Committee has included this provision to ensure that as much funding as possible be available for expenditure on vocationally-oriented services.

The plan must also contain a complete and detailed explanation of the State policies and plans that will be used to carry out the provision of comprehensive rehabilitation services under title II. The specification of these plans and policies and methods of providing these services will include the scope and quality of these additional services and the extent to which they will be provided.

The bill also directs the State to consider in its plan a broad range of services for homebound individuals. It also suggests some of the modes of providing services, such as patient-release programs, which the Committee wishes to see the State consider as possibilities. This is the first time that States have been required to attempt to try to find methods and services, and methods of delivery of those services, from which the homebound could benefit. It was apparent in testimony received by the Committee from a number of witnesses that this group is not now being served, even in a superficial way, under the present Vocational Rehabilitation Act. The Committee is concerned that homebound individuals may be left out of the mainstream of life simply because no emphasis has been placed upon serving them.

The bill directs the State to provide as mandatory services under the State plan evaluation of rehabilitation potential, counseling, guidance, referral, placement, vocational and other training services and related family services and to provide the remainder of all vocational rehabilitation services after consideration of eligibility for similar benefits under other programs. The Committee believes that physical and mental restoration services and maintenance during rehabilitation are necessary and very important services, and wishes to ensure that handicapped individuals will be provided these services as soon as possible. The Committee, therefore, has specified that eligibility considerations will not be required where it will delay the provision of such services to any individual and wher such delay will mean any discomfort and hardship for the individual.

The State plan must also provide that the State will continue to study new methods of meeting the needs of handicapped individuals and how these needs may most effectively be met with a view towards the overall effectiveness of the program.

The State plan must provide for a periodic review of all those individuals who have been placed in extended employment in rehabilitation facilities, especially sheltered workshops, with the aim to remove them from this type of employment and move them into the competitive labor market as quickly as possible. It is the Committee's position that the sheltered workshop is an acceptable place for transitional employment for handicapped individuals. But overwhelming testimony in the hearings suggested that far too many individuals are placed in workshops in a "terminal" employment situation. The Committee suggests that this is not a wise course to follow in rehabilitation and wishes to insure that only those without any hope of competitive employment are placed terminally in workshops. There is a substantial body of testimony that far too many States overuse the workshop as a substitute for employment and not enough effort is made to run a vigorous employment placement program. In the Committee's opinion, the sheltered workshop has become far too convenient a placement site. The Committee, therefore, strongly believes that maximum efforts should be made to use public and private training and education programs available in the community as alternatives to workshop placements.

Finally, the plan requirements direct the State to include in its report on the operation and administration of the State plan periodic estimates of the population of handicapped individuals eligible for services and specification of the number of individuals who will be served, the outcomes and service goals to be achieved for such individuals, and an estimate of the service costs. The Committee believes that far too little emphasis has been placed on comprehensive planning for and surveying of the needs of handicapped individuals in the States, and therefore expects RSA to require the States to place greater emphasis on such concrete planning in the future.

Consolidated rehabilitation plan

The Committee did not wish to mandate the filing of a consolidated rehabilitation plan—under this Act and the Developmental Disabilities Act. It did feel that States, at their option, should be permitted to consolidate the two programs as long as all statutory requirements under both acts are met.

Individualized written rehabilitation program

After hearing extensive testimony and reviewing the data supplied to the Committee by HEW, it became apparent that the individual client was not being sufficiently consulted on his own behalf in tailoring the rehabilitation program to his individual needs. This, plus the obvious need to be certain that the funds authorized by title II were expended in the manner in which the Committee had intended, led to the adoption in section 102 of the bill of the formal written rehabilitation program requirement for every individual who is served under the bill.

It should be expressed clearly at the outset that the Commitee's purpose was in no way to attempt to burden the counselors and rehabilitation coordinators with unnecessary and cumbersome paperwork. It was felt, rather, that the requirement of section 102 will work to improve communication between the handicapped individuals to be served and the rehabilitation counselors who sincerely wish to see them served. A written program, with the required annual review of the program by the handicapped individual and the counselor, should serve both as a way to ensure that the rights of the individual are being protected and that the counselor feels satisfactory progress is being made towards a stated goal.

The Committee wishes to make clear that this written plan is to serve as the blueprint for the rehabilitation of the individual with a severe handicap as well as the handicapped individual without such a severe handicap. The bill stresses that the program should be developed with a vocational goal always in mind. Should that goal not be achievable, it will be up to the agent of the State to demonstrate in writing, after the fullest consultation with the client, beyond any reasonable doubt the infeasibility of achieving a vocational goal.

It is the purpose of the Committee, in requiring an individualized written rehabilitation program, to assure that each handicapped individual has an opportunity to participate in the decisionmaking regarding services he is or is not to receive; to have a written understanding that specifies the services to be provided and the objectives they are to achieve; to be able to obtain information on the progress he is making on the basis of the program; and to rewrite jointly with the rehabilitation agency the program when it is apparent that the stated objectives cannot be achieved. It must be demonstrated beyond a reasonable doubt that the individual cannot achieve any vocational goal, with the full consent of the individual in the written program developed for him, before independent living goals can be acceptable.

The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out unless there are special mitigating circumstances. In such cases, it is expected that alternative service approaches or timetables will be sought and that the rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties. Each handicapped individual is to have the right to review his plan at least annually and, together with the rehabilitation agency, to revise the program terms if the objectives of the program are not being achieved.

The Committee expects that the RSA Commissioner will utilize the written programs as a means of assessing the effectiveness of rehabilitation services in achieving the stated objectives. The Committee realizes that there may be mitigating circumstances as to why indicated objectives are not achieved. These might be, for example, lack of available funds or services. In his annual report to the Congress on the effectiveness of rehabilitation services, the bill directs the Commissioner to include specifically his assessment of the degree to which rehabilitation objectives are or are not being achieved. This report will document the reasons why such objectives have not been achieved and recommend corrective legislation or propose appropriate administrative action. Further, records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under titles I and II of the Act and are determined not to be eligible, the reasons why such a determination was made.

Scope of vocational rehabilitation services

The scope of services that are required under the bill and the services which may be provided are specified in an operative provision of the bill, section 103, rather than in a definition provision as in present law. Added to those services presently specified in existing law are the individual written rehabilitation program, which has been described above; follow-up services, which refer to services given normally for one year after case closure; follow-along services, which refer to services which are necessary in particular cases and are provided for longer than one year; and telecommunications, sensory, and other technological aids and devices. In the latter connection, the Committee believes that such rehabilitation aids and devices covered by this section should be prescribed by appropriate licensed health professionals.

The Committee also limited the use of program funds for individuals who are pursuing higher education paid for by this program to those for whom all alternative means of funding have been sought and were not available. The Committee feels that the costs for instruction at colleges should be borne by some other source of funds if in any way possible, and points out that a substantial new student assistance program is available through P.L. 92-318, the Education Amendments of 1972. Statistics provided to the Committee show that many States do not limit the amount that may be spent on a handicapped individual's higher education, thus substantially diminishing basic program monies available for other services, especially those needed by individuals with more severe handicaps.

In view of the fact that the resources available to treat handicapped individuals and to provide for their rehabilitation will obviously not be unlimited in the foreseeable future, it is the intent of the Committee to stress and provide a priority for services to those with the most severe handicaps.

While it is fully recognized that there is justification for serving those individuals whose only handicap may be their environment or social disadvantagement, the Committee feels that, to the extent possible, these individuals who have no other handicap should be served under programs already in existence for their express benefits.

The Committee also notes that statutory age limitations were removed from the program in the 1965 Amendments to the Vocational Rehabilitation Act. The current regulations are clear in their intent that planning for individual clients should begin when it is determined that the point at which vocational training is appropriate has been reached. Information received by the Committee indicates that some State agencies are still adhering to the prior criteria and thus anyone under the age of 16 years old, or the age up to which school attendance is required, is not being served. It is the Committee's view that services which enhance the long-term vocational potential of an individual should be provided as soon as they will be effective. Exclusion of all children below the age of 16 years may be arbitrary, and the Committee believes that RSA and the State agencies should be cognizant of the fact that prospective clients may benefit from services and planning at an age earlier than 16. The Committee expects that regulations implementing this Act will make clear that such individuals are not to be excluded based solely on the age factor.

Allotment formula

The bill makes no change from present law in the method for computing the allotment formula for the basic State grants. S. 3987 as reported from the Committee last Congress (Senate Report No. 92-1135) did propose such a change, which was discussed at length on pages 17 and 18 of the prior report. During consideration on the Senate floor, the existing formula was restored to that bill; but, in order to provide for an early and focused opportunity to conduct a full reexamination of the equities involved in the present formula, it was agreed that under title I, part B, basic State grant authorization of appropriations should extend for one year less than the rest of the programs in the bill, which ran through FY 1975. This decision was ultimately reflected in H.R. 8395 as passed by the Senate, and was included in the Conference report version sent to the President which he disapproved.

It has been generally agreed within the Committee that dispute over the allotment formula issue should not be allowed to stand in the way of timely passage of S. 7. Therefore, the State grant program in the bill as reported expires a year before the other programs authorized in S. 7, thus affording the Congress an opportunity to consider the formula issue separately one year before the authorizations in the rest of the bill expire.

Further, with respect to S. 7, since eight months of FY 1973 have expired as this report is filed, the Committee decided to add an additional year of appropriations authorization for each program. Thus, all other programs are now extended through FY 1976 and the basic State grant program through FY 1975.

It should also be noted with respect to the formula that the bill does increase the minimum which can be allotted to any State from $1,000,000, as in present law, to $2,000,000; and also extends this minimum to Puerto Rico (which was not entitled to it under present law) as well as to the District of Columbia (which was so entitled under existing law).

Innovation and expansion grants (part C)

The Committee, as well as placing the authority for making innovation and expansion grants in RSA, has also allowed each State to establish project priorities within the purposes of statutory provisions with respect to no less than 50 percent of its formula allotment under this part (which is generally determined according to population with a $50,000 minimum). With respect to the remaining allotment funds, the Commissioner may fund projects which he deems to be of a priority nature. The bill directs that these grants should be used to improve and expand services for the classes of individuals for whom rehabilitation may be retarded by socio-economic factors or who have other serious problems in connection with their rehabilitation. These grants are also expected to be used to improve services and programs to those with the most severe handicaps. In order to provide maximum incentives, Federal payments for these projects are set at the level of 90 percent and are to be used particularly for those individuals whose rehabilitation needs are also the responsibility of other State or Federal agencies, and the allotment for each State is determined on a formula based on population (with a $50,000 minimum). The Committee feels that too liberal an interpretation by RSA of the "in kind" provision regarding the 10 percent non-Federal share could, in some cases, result in less total services being given to handicapped individuals requiring them and, therefore, urges that special care be given with respect to the evaluation of the in-kind component.

Client assistance

The hearing testimony pointed up a serious lack of communication between the counselor and the client, and the administrator of a facility and the client, and the inability of the average client truly to understand the maze of bureaucratic procedures in the program. The Committee felt strongly that this was a marked deficiency in the program which must be remedied. To this end, the individualized written rehabilitation program was established as a basic service that must be provided to the handicapped individual. This step insures that the client will understand what is being done, what he can expect to be done in his behalf, and what his alternatives are if his progress is not satisfactory.

The Committee felt, however, that all this awareness by the client may not be of great value unless the system could be made to work for him not on or at him. The Committee recognizes that many handicapped individuals need a way to have the system translated to them in terms they understand, and conversely, have the system understand their wishes through the same type of translation. The client assistance method was agreed to as a viable method to attempt to achieve these goals and was endorsed by

virtually every witness that appeared before the committee.

In view of that testimony, and the Committee's belief in this type of system as an excellent way to achieve translation of the system to the client and the translation of the client's needs and desires to the system, client assistance projects were authorized in the bill. There is no similar provision in present law. It is intended that the function to be performed by the client assistance projects is to seek to resolve difficulties that the client is having with the program as quickly and amicably as possible.

The Committee feels that the client assistance worker must also be responsive to the program; that it is within his function to act as liaison between the individuals responsible for the programs and treatment functions as well. In order to do this and do it well, the client assistance worker of necessity must have prompt and reasonable access to the appropriate personnel in the state agencies and the regional and central offices of RSA.

The client assistance worker is further charged with the responsibility to report fully its activities to the Commissioner, including any recommendations to make the program more responsive both for the client and to aid the administration of the program. The State agency should make every effort to enter into arrangements, where possible, with institutions of higher learning in order to draw upon the students in clinical training in certain disciplines to assist in performance of the client assistance function. The client assistance project shall at no time be a client or former client of the State agency nor an employee of the State agency whose task it is to administer the plan.

The Committee fully recognizes the fact that a close relationship between client and counselor is most important for a successful rehabilitation program. It is not intended that the client assistance project should stand in the way of that relationship, nor supplant or reduce it in any way. The function of the client assistance project is merely to see that the written rehabilitation program is determined and carried out to the benefit of the handicapped individual and that complex issues which might arise are minimized quickly. Access to the client assistance project must be assured if it is to aid the program and the client. The client must know that the client assistance project is available; the State agency, therefore, is required to make sure that the client assistance projects are available to the client as part of the process of formulating his written rehabilitation plan. It is the Committee's firm belief that a better program should result by the client assistance project working actively with the client and the agency.

The proposal for client assistance projects to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to effect the environment in which he is confined and the rules and regulations in his day-to-day existence. The Committee believes that the ombudsmen-type of approach is ideally suited to the structure of the rehabilitation program at this time, and further believes that this program, if successful, could be the forerunner of client assistance programs in numerous federal, state and local social services programs.

The Committee envisions that a typical client assistance for a medium-sized city could be structured approximately as follows:

1. Out of the funds reserved for establishing client assistance, the State agency would hire two full-time client assistance workers, who might be beginning their careers in fields such as law, social work, public administration, or psychology, and 1 or 2 clerical assistants.

2. The State agency and the client assistance workers hired for the project in this city could then contact the local colleges and universities and attempt to arrange for graduate students, engaged in clinical programs, to carry out their academic responsibilities for a given period of time (a quarter, a semester, or even a full year) by working as assistants to the client assistance workers in the project and operating under the direct supervision of the full-time client assistance workers. The assistant would very likely be assigned responsibility for preliminary interviews with client complainants and the initial follow-up to determine whether or not a *prima facie* case exists. After a sufficient period of experience, such an assistant might well be assigned the responsibility for conciliating particular grievances. At all times, however, they would be in contact with the full-time worker supervising their work.

3. Based upon a prototype for this sort of program carried out quite recently, there is strong reason to believe that universities would be extremely interested in placing graduate students in such a program. This would have a double benefit: first, of providing energetic, committed, and talented young professional students to invigorate the system; and second, of involving in the client assistance project, on an informal basis, all of the good services and offices available from any college or university and particularly from the instructor or professor responsible for the clinical clerkship of the assistant client assistance worker. This academic relationship should provide an objectivity to the process because the graduate students would not be remaining in the program long enough to develop a vested interest in any particular bureaucratic structure or relationship.

4. This client assistance system—blending the expertise of the full-time advocate and the objectivity, freshness of approach and energy of the graduate students—would be responsible for handling client grievances for of the rehabilitation programs and projects in the particular city. It is believed that after the break-in period, a substantial amount of expertise will be developed in handling client grievances and that resolution, particularly in cases of poor communication and misunderstanding, will be quickly forthcoming.

5. Moreover, it is anticipated that the very existence of an objective and concerned client assistance project will serve to produce considerable interpersonal sensitivity on the part of the rehabilitation programs after they have initial experience with an effective grievance investigation and resolution process carried out by the project. Thus, although at first the case load will undoubtedly be substantial, in time this should level out and probably drop once the project proves its effectiveness in securing equity for the client—in an even-handed manner with sensitivity to the problems faced by the bureaucracy as well—to the satisfaction of both individual clients and rehabilitation projects and programs.

TITLE II. COMPREHENSIVE REHABILITATION SERVICES

The bill deals with the matter of the handicapped individual for whom a vocational goal is not possible in a separate title with a separate appropriations authorization in order to avoid any diminution of efforts under the basic title I, part B, program and to place major stress on achieving vocational outcomes. The Committee intends in this title to provide funds to the States to provide and implement plans to meet the needs of handicapped individuals for whom a vocational goal is not possible or feasible. In order to assure that this intent is met, it became necessary to provide a definition of "rehabilitation" for the purposes of this title only. The Committee stresses that this definition—the goal of achieving, through the provisions of comprehensive rehabilitation services, substantial ability to live independently or function normally in his family or community—must be applied only in this title and only after certification in the individual's written rehabilitation program (under section 102) that a vocational goal is not immediately feasible.

The Committee chose this approach in order to provide the authority and authorize appropriations for States to carry out the rehabilitation of individuals who at the time of application for services are certified by the counselor or coordinator in the individual's written rehabilitation program not then capable of achieving a vocational goal.

The State allotment for this title would be determined in the same manner as in Part B of title I (except that the allotment percentage, as defined in section 8 of the bill, is not squared), unless the amount of appropriation in any year does not exceed $20,000,000, in which case the Commissioner is authorized to disburse the funds on a project grant basis in order that the effectiveness of expenditures be maximized.

The purpose of title II is to provide a chance for a vocational outcome for those who, at the time of entry into the service system, may be found to lack the necessary skills or training, due to prior lack of attention. It is also designed so that those for whom a vocational goal is not desirable will still be able to receive services. The Committee wishes to stress that it is not its intention for this to be a category into which those with the most severe handicaps are to be placed terminally. Rather, this title is intended to be a starting point for those who initially would not be eligible for title I services.

While these title II funds are authorized on a State-by-State basis, the Committee fully recognizes that the funds may not be most effectively spent if a State spreads them into all its political subdivisions. It may be more effective for funds for certain programs to be concentrated in those areas where significant numbers of individuals needing "comprehensive rehabilitation services" reside and where the facilities and services needed for their rehabilitation are available. Thus, the State plan with respect to individuals without vocational goals does not require that they be served on a State-wide basis using title II funds.

The bill provides that to receive funds for FY 1974 under this Act, the plan submitted by the State to the Secretary under section 101 of this Act or section 5 of the Vocational Rehabilitation Act must be amended within 180 days of enactment of the bill to include provision for comprehensive rehabilitation services; that such a program will be included in the section 101 plan submitted each subsequent year; and that services to homebound and institutionalized individuals be among the services that State must demonstrate it has considered. The Committee expects that the States and RSA will make every effort to expedite the refinement of the necessary regulations, and to provide, and operate under guidelines, which will lead to excellence in the provision of these services as soon as possible.

The bill, therefore, directs RSA to report to Congress in the annual report on the new program provided for under title II. It is hoped that this will include any further recommendations for changes in the law that will help facilitate the efficient provision of services to handicapped individuals without vocational goals. It is also expected that in such report, particular emphasis will be placed on the ways in which the independent living goal part of the program is being carried out.

Funds are distributed under the Title II program on a 90/10 percent Federal/non-Federal share basis.

TITLE III. SPECIAL FEDERAL RESPONSIBILITIES

Title III of the bill contains all special programs, grants and related service activities

which are not carried out by the State rehabilitation agency, but provide the basis for improvement of services and expansion of services to special target populations of handicapped individuals. This title incorporates, with changes and additions, the following provisions from the Vocational Rehabilitation Act: Section 4(a)(2), with the exception of expansion grants; section 12, construction of facilities and initial staffing programs; section 13, programs related to vocational training services to handicapped individuals (including maintenance payments during training); section 16, the National Center for Deaf-Blind Youths and Adults; and section 17, the special program for handicapped migratory and agricultural workers. It also provides new authority for Rehabilitation Centers for the Deaf, Centers for Spinal Cord Injuries, project grants for services to older blind individuals, and project grants for services to individuals with end-stage renal disease.

New target programs

The bill concentrates on providing flexibility under the basic program so that all individual needs may be served, and on providing procedural safeguards and emphases throughout the bill to ensure that the individuals who have the most severe handicaps are able to receive services through rehabilitation agencies. Yet the Committee is aware that segments of the population of handicapped individuals have special needs and that funding is necessary to focus attention on these needs. The committee bill, therefore, includes a limited number of categorical programs to target Federal money on these special needs and to demonstrate improved methods of providing services. The Committee does not anticipate that emphasis on these categorical programs will be continued on a long-term basis, but has provided limited funding for special purposes in order to improve and expand services, and to demonstrate an effective way of providing them.

Rehabilitation centers for deaf individuals

Section 306 provides authority for grants and contracts to expand and improve vocational and comprehensive rehabilitation services for deaf individuals, and specifies that this may be done through the establishment of centers for this purpose.

During hearings, the Committee was told that rehabilitation services do not always meet the needs of deaf individuals. Quite often counselors are not available who can communicate with deaf clients, and services for individuals with severe communicative disorders designed to deal comprehensively with the individual's total needs are seldom provided. Witnesses from the deaf community also reported to the Committee that there were limited training options available for deaf individuals who leave secondary schools with no technical skills and thus have great difficulty finding employment. This is especially a problem for the more profoundly deaf individual with limited communicative abilities and some behavioral disorders. Witnesses further testified that while facilities exist for higher education and postsecondary technical training for deaf individuals, academic postsecondary training is not feasible for those deaf individuals with severe handicaps and that existing facilities such as Gallaudet College, the National Training Institute for the Deaf, and facilities at Hot Springs, Arkansas, and Delevan, Wisconsin, cannot fill the need. For individuals who are older, specialized training programs are needed, separate from other programs for handicapped individuals who do not have such severe communicative disorders.

The Committee, however, also heard testimony questioning the wisdom of creating separate facilities which would further segregate certain deaf individuals from the deaf population and from the society at large.

The Committee recognized the need to act to provide assistance in coping with the severe problems of training for deaf individuals with behavioral and communicative limitations. However, the Committee is concerned that the creation of permanent facilities for so-called "low-achieving" deaf youths and adults, especially for young deaf individuals, as suggested in legislation in the 92d Congress House bill, might provide an additional avenue by which the existing educational system could further dispose of those individuals who are more difficult to provide with adequate services. The committee, therefore, has included in the bill a program for grants and contracts for the improvement of services to deaf individuals who are 16 years of age or older who have passed the age of compulsory school attendance for the State in which they reside. The Committee sees this program as a demonstration program, and has specified that one means by which this demonstration might be carried out is through the establishment of demonstration Rehabilitation Centers. This authority includes training of necessary personnel, and the Committee believes that emphasis within training should include counselors for rehabilitation agencies and trained counselors who can work with individuals, especially younger individuals, through the school system.

The Committee has limited this authority to individuals who are beyond school age because it did not wish to provide other program authority for facilities and services which should be available through education programs, but are not. It therefore expects to re-examine this entire question of the adequacy of the elementary, secondary and postsecondary educational system for deaf individuals when authorization of the Elementary and Secondary Educational Act and the Education of the Handicapped Act is considered for renewal in this session of the Congress. The Committee further takes note of the fact that several bills have been introduced in the Senate which would expand federal assistance for the education of handicapped individuals, including authority for continuing, adult and higher educational services, and it suggests that these bills are the appropriate vehicles for reforming and improving the educational system so that the needs of deaf individuals are met.

However, in order to take an initial step in the direction of improving these services for those individuals who are generally already beyond the reach of the education system, the Committee has provided authority for demonstration programs for improvement of rehabilitation programs for the deaf through the creation of centers or otherwise, and has required coordination in the planning of these programs between RSA and the Bureau of Education for the Handicapped within the Office of Education.

National centers for spinal cord injuries

Section 308 contains a program to support the establishment and operation of National Centers for Spinal Cord Injuries. This section corresponds to a similar section in the original House bill (H.R. 8395) which provided support for demonstration of methods of specialized intensive services in the treatment of spinal cord injuries, training of personnel, and research in rehabilitation methods and related activities to expand services or improve public awareness of the nature of the problem of the spinal cord injury. The Senate bill, however, differs substantially from the original House provision.

During hearings on H.R. 8395 in the 92d Congress, reaffirmed in the hearings on S. 7 in this Congress, testimony from experts in the field of spinal cord injury suggested that a broad program was needed. Of particular note in this testimony was stress placed on the need for a regional program of spinal cord injury centers which would have the capacity of providing vocational and comprehensive rehabilitation services through a team of multidisciplinary staff, and which could provide acute medical care. This testimony also emphasized the need for a coordinated system of provision of services and for cooperation among all organizations and agencies which provide services to individuals with spinal cord injury, and the need to provide assistance to help cover the cost of services.

The Committee believes that the testimony on the effectiveness of national centers for spinal cord injuries was compelling, and that the effectiveness of such a system should be tested. Often the effectiveness of treatment and the ability for restoration depend entirely on prompt and thorough treatment at the site of injury and immediate care following. Yet current methods in general use for providing services to those with the spinal cord injuries cannot provide this immediate care because of a lack of accessible facilities equipped with modern equipment and multidisciplinary team of attendants. Therefore, the special target program in the Senate bill authorizes a program of grants and contracts to assist in the forming of centers, for the delivery of rehabilitation services and acute medical care, to assist in meeting the costs of services, and to assist in the development of methods for provision of services and achieving cooperation with all organizations and agencies concerned with spinal cord injury.

In order to test the effectiveness of a regional system, preference is given to proposals to establish, on a regional basis, a multidisciplinary system of providing rehabilitation services, which will test and evaluate the benefits and cost effectiveness of such a regional system. The Committee was impressed by the testimony of witnesses about the development of new techniques, methods and equipment which are able in many instances to recapture much of the ability the individual has lost through spinal cord injury, and this the bill gives emphasis in the awarding of grants and contracts to the evaluations of such methods, and the evaluation of new methods of outreach and community education in broad social areas so that individuals with spinal cord injuries will not continue to be limited by societal barriers.

Services for end-stage renal disease

Section 309 of the bill authorizes the third target program—for individuals suffering from end-stage renal disease. This section authorizes the Commissioner to make grants to States and nonprofit organizations and agencies for paying the costs of special services (including transplantation and dialysis), artificial kidneys and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease. This section is identical to the program initially authorized by the House bill (H.R. 8395).

Both transplantation and kidney dialysis and special services and supplies are included as services which may be paid for under this section. Funds authorized under this program should be utilized to pay for physical restoration services rendered to patients in need of care. The Committee believes there is a critical need for these services and that expenditures under the program should be closely regulated to assure that the highest quality services are available at the most reasonable cost. The Committee does not believe that funds available under this section should be used to pay for additional facilities, training of personnel, or research, but that other funding sources should be utilized for such activities.

Testimony presented on behalf of this provision emphasized that many more lives could be saved if individuals were able to find assistance to pay for treatment. Currently, of the 7,000 to 8,000 patients who could benefit from dialysis or transplanta-

tion per year, only 2,000 individuals are able to receive it because of the limited availability of financial assistance. According to these same witnesses, kidney treatment facilities, training programs, and treatment teams have been established throughout the country through efforts made by the Regional Medical Programs funded under the Public Health Service Act. The last link in this system is assistance to the patient so that he may be able to afford this costly, but life-saving treatment.

The Committee notes that rehabilitation agencies in as many as 41 states provide services to individuals suffering from end-stage renal disease. Often, however, these agencies' ability to help an individual depends on the individual's having a source of financial aid, whether it is private income, other private sources, or the Medicaid program. The Committee, however, believes that it is a tragedy and counterproductive from the point of the individual and society that individuals must give up their source of livelihood in order to become eligible for financial assistance through Medicaid. While the Committee recognizes that a national health insurance program, or the recent Medicare amendment, offer more integral means of providing much needed assistance, individuals are covered under the new Medicare provision only after they have received services for 90 days and some individuals—without Social Security coverage—are not included at all. There is thus immediate unmet need to help thousands of individuals who could be saved through dialysis or transplantation but who do not have the financial means. Furthermore, the rehabilitation program offers the comprehensive counseling, training and job placement services that are often needed by individuals suddenly faced with kidney failure.

Rehabilitation of older blind individuals

Section 310 authorizes a fourth target program—to provide rehabilitation services to older blind individuals (defined as age 55 and older). The Senate bill provides for an authorization of appropriations for project grants to be used for a special demonstration program for demonstrating special services needed to rehabilitate older blind individuals, for training personnel for research, and for related activities which will expand services or improve public understanding of problems confronted by older blind individuals. More than 75% of all blind individuals are middle-aged or older, as a result of the fact that many individuals suffer severe vision impairment later in life, their blindness often accompanying of precipitated by some other health problem. This is especially true in the case of diabetics. Estimates show that 1 out of every 6 blind individuals was blinded by diabetes.

Witnesses pointed out that becoming blind late in life often produces a total change in an individual's life, yet avenues to employment are closed off, rehabilitation services are more difficult to obtain, and sources of other support are limited. In addition, they cited a need for mobility training services and comprehensive counseling for which social welfare agencies will not provide money. Recognizing the size of the population of older blind individuals, and the severity of their handicap and agreeing with the needs pointed out above, the Committee provides authority for a specialized demonstration program to help meet these needs.

Provisions for facilities

Sections 301, 302, 304, and 313 of the bill contain provisions relating to rehabilitation facilities, including construction and initial staffing grants, annual interest grants for mortgages, project grants for vocational training of handicapped individuals within rehabilitation facilities, including weekly allowances for such individual while undergoing vocational training programs, and general grant and contract requirements for facilities.

Mortgage insurance for rehabilitation facilities

S. 7 includes a provision (section 303) authorizing mortgage insurance for rehabilitation facilities in order to assist and encourage the provision of urgently needed facilities for rehabilitation programs for handicapped individuals. Under this provision, the bill authorizes the Commissioner of RSA, in consultation with the Secretary of Housing and Urban Development, to insure up to 100% of the mortgage, with the limitation that the principal obligation of the mortgage may not be for more than 90 percent of the estimated property replacement cost. The bill would also allow the Commissioner to delegate to the Secretary of Housing and Urban Development, pursuant to a delegation agreement, the authority to administer this mortgage insurance provision. The provision also authorizes appropriations for initial capital for the insurance fund, but provides that the total amount of outstanding mortgages insured may not exceed $250,000,000.

Annual interest grants

The bill authorizes (in section 304) the Commissioner to make annual interest grants to States and public and nonprofit agencies to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities. For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for the payment of the grants. However, the section places a limitation on the total amount of interest grants which may be paid as follows: the total amount shall not exceed $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $4,000,000 for the fiscal year ending June 30, 1975. Grants paid under this section may be made to any rehabilitation facility for a period not to exceed forty years. Therefore, the total amount which is authorized to be appropriated for this section must be calculated over the forty-year time period, thus amounting to $1,000,000 for forty years, or $40 million as a result of the amount authorized for the fiscal year ending June 30, 1973 an additional $1 million in new monies for the fiscal year ending June 30, 1974, or $40 million; and an additional $2 million for the fiscal year ending June 30, 1975, or $80 million over the next forty year time period.

Total amounts so authorized are $160 million over the fixed time period of forty-three years.

General provisions

The bill also combines in one section (313) all general requirements for grants and contracts approved under title III. This section contains provisions relating to: uses of facilities constructed under Federal contract (including a prohibition of uses for religious to sectarian activities), uses of Federal funds, submission of annual reports, inclusion of excellence of design and architecture in plans for construction, conformance with the Architectural Barriers Act (P.L. 90-480), conformance with the Davis-Bacon Act (wage payments and labor standards), payment provisions, residential accommodations in rehabilitation facility construction, and general conformance with the State plan for the provision of vocational and comprehensive rehabilitation services.

Most of the general provisions of section 313 were contained in existing law. However, the bill also requires that emphasis be placed on the importance that facilities be in compliance with occupational health and safety regulations and with the provisions of the Architectural Barriers Act. The Committee heard repeated testimony during hearings on this legislation that many of the rehabilitation facilities do not meet minimum standards for safety of the individuals to whom they are providing training or evaluation services. In order to meet this concern, the Committee has directed the Secretary to prescribe regulations which bring these facilities into compliance with the Architectural Barriers Act and with occupational health and safety standards prescribed by the Secretary of Labor. The Committee has also included a specific rehabilitation on use of funds for construction of such portion of a facility as will be used for religious worship or sectarian activities.

The bill does not include authority for the National Policy and Performance Council which was contained in existing law. The Committee has expanded the authority of the National Advisory Council (and renamed it), authorized the establishment of State Advisory Councils, and directed the Secretary to undertake an expanded program of program and project evaluation, and, therefore, believes that this Council is no longer necessary.

Special projects and demonstrations

Section 305 of the bill contains all authority provided to the Commissioner for making grants for special and demonstration projects which hold promise of expanding and improving rehabilitation services to handicapped individuals. This section is comparable to a similar and authority for special projects contained in existing law.

The bill has included under special projects a provision for grants for vocational and comprehensive rehabilitation services for migratory agricultural workers (including seasonal farmworkers), a provision contained in section 17 of existing law which has never been funded. The Committee believes strongly that the provision of services to migrants and seasonal farmworkers is a priority. In order to achieve the required result, the bill earmarks 10% of all sums appropriated for special projects to be used for projects to provide vocational and comprehensive rehabilitation services to handicapped migrants and their families, and provides an additional authorization of appropriations if sums appropriated for special projects are not sufficient to result in the availability of $10 million ($5 million in FY 1973) for such services.

The Committee is well aware of the difficulties faced by migrant and seasonal agricultural workers in receiving their fair share of social services, and urges the Commissioner to search for innovative projects which may serve as models for the delivery of other social services to such individuals. The Committee believes that difficulties of delivery of such services can be overcome, and considers the implementation of this provision a priority.

Special projects, in general, are an important method of experimentation and development of new patterns of service delivery, and should lead to the development of techniques which can greatly impove services to handicapped individuals throughout the nation. The Committee has directed the Commissioner to give special emphasis to projects which will improve services to individuals whose handicaps are more severe, and believes that projects ought to be awarded with distinct goals in mind for this improvement, and for the extension of techniques, methods and patterns of delivery of services to the basic rehabilitation program throughout the States.

National Center for Deaf-Blind Youths and Adults

Section 306 continues the authority for the construction and operation of the National Center for Deaf-Blind Youths and Adults, and authorizes for fiscal year 1973 the appropriation of $5 million for construction and $800,000 for operations; and $1.2 million for operations in FY 1974 and $2.0 million each for FY's 1975 and 1976. The amounts authorized for construction were

identified during the hearings as required amounts to complete construction of the National Center and provide sufficient operating funds. The Committee was impressed with the plans for the Center and the range of services which this Center promises to provide for deaf-blind individuals. Recognizing that this Center will not be able to serve the estimated 10,000 deaf-blind population of the country, the Committee would urge that this Center and the Industrial Home for the Blind undertake plans to ensure that techniques and methods of providing services to deaf-blind individuals developed in the Center will be transferred to the entire population of such individuals. The Committee therefore expects the Center to enter into cooperative and coordinated arrangements with schools and other institutions which provide services to individuals who are both deaf and blind so that these institutions may further benefit from the experience of the Center.

Advisory councils

S. 7 expands the functions and membership of the National Advisory Council in present law and redesignates it as the National Advisory Council on Rehabilitation of Handicapped Individuals (section 311), and authorizes State Advisory Councils (section 312). The 12-member National Advisory Council under present law has been expanded to 20 persons, 10 of whom are to be selected from among leading medical, educational or scientific authorities outstanding in rehabilitation, and 8 of the 20 are to be handicapped individuals, or individuals who have received vocational rehabilitation services.

The Committee believed that a panel of such leading authorities and experts would be extremely knowledgeable about needs within the field and, therefore, has provided this Council with broad advisory powers for planning, determination of priorities, review of program operation, and evaluation of effectiveness of the programs administered by RSA. The Committee is particularly interested in the effectiveness of the program in meeting program goals, and expects this Council to be well equipped to carry out such an evaluation.

The Committee has expanded the research authority for RSA and has required priority for service to those with the most severe handicaps and greater importance to be given to biomedical engineering and applications of research. The Committee expects the National Advisory Council to play an active role in the defining and carrying out of these priorities, and has directed the Council to submit annual reports to the Congress on the results of its reviews.

Throughout the hearings, testimony was given on the lack of consumer input at the State and individual program level. The Committee believes that this form of input is necessary and extremely valuable at all levels of government, and therefore has authorized State Advisory Councils which will advise the Governor on the State plan, provide advice on long-range planning and evaluation, and make a report of recommendations to the Governor annually on the effectiveness of the State program, areas in which services should be extended, and the need for change within the program. An authorization of appropriations of $2 million for each of FY 1973, 1974, 1975, and 1976 is provided to carry out the activities of the State Advisory Councils. The Councils will be appointed by the Governor, from individuals with experience in the rehabilitation program and in education, representatives of labor and management, and persons who are knowledgeable about the employment of individuals who have received vocational rehabilitation services. The Committee has specified that at least a majority of the Council must be handicapped individuals or individuals who have received vocational rehabilitation services.

TITLE IV. RESEARCH AND TRAINING

RSA Responsibility

Title IV of the bill consolidates all research and training authority in existing law and includes it in one title to be administered by the Commissioner of RSA. It specifically mandates four major priorities; the establishment and support of Rehabilitation Research and Training Centers; the establishment and support of Rehabilitation Engineering Research Centers; the conduct of a program for spinal cord injury research; and the conduct of a program for international rehabilitation research and the international exchange of personnel and technical information.

The bill places authority and control over the expenditure of research and training funds in the hands of the RSA Commissioner in order to ensure that funds that have been authorized for the purposes of research in rehabilitation methods and techniques and training of specialized personnel for delivery of such services to handicapped individuals will be used for *only* that purpose. The Committee emphasizes that rehabilitation of handicapped individuals is the only thrust of the Rehabilitation Act of 1972, and this rehabilitation involves complex problems and specialized needs which do not necessarily apply to the general population of persons served by other HEW programs. Until these problems have been solved and these specialized needs have been served, the Committee does not wish to have research and training funds expended to solve more generic problems. With the tremendous technological, scientific, and medical knowledge within the United States, there is no excuse for failure to make full use of that knowledge. The Committee has emphasized throughout the bill the need for RSA to expand its services to individuals whose handicaps are the most severe, and to improve the effectiveness and focus of its services for all eligible handicapped individuals. The emphasis applies to the Research and Training authorities.

There is no question that in order to carry out a tremendous increase in knowledge, innovative methods, devices and techniques will be needed. In order to provide the technical assistance that will be necessary, a substantial and imaginative research program must be undertaken.

The Committee expects RSA to be in the forefront of major technological breakthroughs in biomedical engineering and applied technology which would ameliorate many of the handicapping conditions of the individuals it serves. In the future, the Committee will ask the Administration to provide, in its required annual report on research, full explanation and justification for its activities, goals and priorities in the areas of research and training, focusing on the targeting of research and personnel on particular problems affecting particular disability groups.

The Committee wishes to stress that it firmly expects the research orientation to be aimed at overcoming the disability itself, not just solving a few minor service-related problems, and that the goal should be to enable the handicapped individual to be employed or to receive further training or education, whenever feasible.

Division of Research, Training, and Evaluation

In order to enable RSA to carry out this charge, the bill has established within that Administration a Division of Research, Training and Evaluation, and within such Division a Center for Technology, Assessment and Evaluation. The Committee has provided RSA with authorization for 10 additional personnel of outstanding medical and scientific achievements to ensure that this Division and its subordinate Center will have individuals of outstanding expertise to provide direction and evaluation of the program. The Committee has also specified that the Division will carry out its duties and functions with the advice and consultation of the National Science Foundation and the National Academy of Sciences. The Committee cannot emphasize too strongly that it expects this Division to be the primary authority within the Department of Health, Education and Welfare on rehabilitation technology, research and training.

The Committee reviewed during the hearings the specialized needs in research and training, and was impressed with the potential of applied research in solving the problems of individuals with severe handicaps. The bill thus provides general authority for research grants and projects only insofar as they bear directly on development of methods, procedures and devices to assist in provision of services to handicapped individuals as well as individuals with severe handicaps.

In view of these longer term needs, the Committee believes that a commitment must be made now in the training of rehabilitation research personnel, the development of new techniques, methods and devices, and the sharing of information across international boundaries.

New research priorities

Therefore, in this title the Committee bill mandates four major priorities:

(1) the establishment, extension, and support of Rehabilitation Research and Training Centers, to be operated in collaboration with institutions of higher education, to train rehabilitation research personnel who will be needed to develop new methods, techniques and devices for the rehabilitation of handicapped individuals:

(2) the establishment and support of Rehabilitation Engineering Research Centers to develop new methods of applying technology, breakthroughs in medical and other scientific knowledge, and to develop methods of information exchange to aid in the prompt utilization and application of engineering and other knowledge to rehabilitation problems:

(3) the carrying out of a program of spinal cord injury research, in support of and, where appropriate, in conjunction with, the National Centers for Spinal Cord Injuries, to encourage the sharing of new knowledge and the support of new approaches, and to coordinate efforts in research carried on by other governmental and voluntary agencies; and

(4) the conduct of a program of international rehabilitation research and training so that all knowledge may be utilized and shared across international boundaries.

In order to emphasize even more strongly the importance it places on the application of technology to the rehabilitation of handicapped individuals, the Committee earmarked 15%, 25%, and 25% of the total funds available for research for the next three fiscal years to be used for the establishment and support of Rehabilitation Engineering Research Centers. It expects that these Centers will be a major force in the extension of medical, technological and scientific knowledge to rehabilitation problems, and has directed these Centers to cooperate with State agencies, to insure that prompt utilization is made of new developments, and with the Office for the Handicapped, so that these developments may be made known across program lines.

The Committee is aware of many developments in the area of rehabilitation that have been made in other countries, and encourages the fullest possible utilization of this knowledge and expertise and the sharing of scientific information. It, therefore, directs RSA to undertake the above program of information, personnel and research exchange and to apply the results as soon as possible.

Training

The Committee bill also provides general authority for the training of rehabilitation personnel and specifically directs RSA to utilize funds available in any year to support a balanced program of assistance to meet personnel training needs. Testimony has indicated a great shortage of skilled rehabilitation personnel at all operational levels and in all professional categories. For example, it is estimated that to meet adequate projected rehabilitation needs in FY 1974, 4,000 more physical medicine and rehabilitation physician specialists are needed.

In addition to providing for more funding for training of rehabilitation personnel, the bill places an emphasis on training of individuals to work in certain specialized areas where shortages are even more severe, and stresses the needs of homebound and institutionalized individuals.

Moreover, it came to the Committee's attention after hearings last year that there was a lack of focus on handicapped individuals, and on the training of personnel to serve them, who have limited English-speaking ability. The Committee expects the RSA Commissioner to provide for the expansion of services available to these individuals. In this regard, the Committee added to the bill specific reference to the need to train rehabilitation personnel to work with individuals of limited English-speaking ability so that services to such individuals can be provided on a more equitable basis, with particular attention to bilingual/bicultural needs.

Integrated research and training approach

The Committee has combined all research and training in this title and specified four major priorities because it wishes to make very clear the importance it places on a coordinated research and training endeavor in the area of rehabilitation. The Committee was informed in hearings that although many of the priorities specified in this title are being carried out now under the authority of the Vocational Rehabilitation Act, research efforts are piecemeal and little effect is being felt in the field. The Committee is disturbed about the budgeting trend as very clearly reflected in the FY 1974 budget to eliminate research funds and cut back on training funds, and the concomitant diluting of emphasis on the particular needs of handicapped individuals. It fully expects that through the creation of a Division for Research, Training and Evaluation and the increase in personnel provided, RSA will undertake a major effort to expand and coordinate research and training programs in the area of rehabilitation, in order that these efforts will have a more profound and direct effect on the lives of individuals with handicaps. The Committee was greatly impressed with testimony reporting the development of many exciting, innovative techniques and believes that RSA should make a special effort to ensure that developments can be transferred to programs in the field as soon as possible.

Reports

In line with the integrated training and research approach, the bill requires a special annual report on title IV activities and the extent to which they have contributed directly to the rehabilitation needs of handicapped individuals, especially those with the most severe handicaps and those served under title II (non-vocational goal).

The Committee finds it necessary to question the effectiveness of the vocational rehabilitation program in meeting its stated goals. Witness after witness during the hearings raised questions regarding the population that State agencies are serving, and whether the program was being as effective as it might be in delivering services to those handicapped individuals who are most in need of the program's assistance. Although the vocational rehabilitation program continues to serve a larger number of individuals in each fiscal year, questions which were raised made it necessary for the Committee to reiterate in the bill that the program should be serving only handicapped individuals whose handicap constitutes a *substantial* handicap to employment, and to set an order of priority to ensure that those with the most severe handicaps are served first. The Department produced figures which indicated that 25% of the caseload of the basic program were severely handicapped individuals; however, the Committee does not find that a 25 percentage is high enough, nor does it know whether all of the 25% cited by the Department are in fact persons with severe handicaps (particularly as that term is now defined in section 7(13) of the bill).

TITLE V. ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Title V combines provisions of existing law in the Vocational Rehabilitation Act relating to Secretarial responsibilities for administration and evaluation, and includes, with changes and additions, the following: Section 7, relating to administration; section 8, promotion of employment opportunities; section 9, submission of reports; section 10, appropriations for administration; and section 13(c), provision of technical assistance and consultants. In addition, title V of the bill contains new provisions relating to secretarial duties for carrying out program and project evaluation, and directs the Secretary to undertake a comprehensive study of sheltered workshops (and wage payments).

Specifically, the title contains provisions for Secretarial administration, including authority for technical assistance to the States, short-term training and instruction, dissemination of information, the making of rules, regulations and delegation of powers, and the conduct of studies and obtaining information from Federal agencies. In addition, however, the Committee is concerned that little coordination and cooperation exists between the Department of Health, Education and Welfare and the Veterans' Administration with regard to comparable programs for rehabilitation. While the Committee recognizes that responsibility for such coordination rests on both administrators, the Committee directs the Secretary to ensure that maximum coordination and consultation takes place with the VA at the national and local levels with respect to rehabilitation services and related programs for disabled veterans.

Program and project evaluation

The Committee bill contains new provisions relating to program and project evaluation which the Committee believes are necessary to help determine program effectiveness. The Committee directs the Secretary to evaluate all programs authorized by this Act to determine their effectiveness in achieving stated goals. Especially with regard to research, demonstrations, and related activities carried out under title III, the Committee directs the Secretary to reassess priorities for such activities on an annual basis and to review each project to determine whether and on what basis it should be continued, and to report to the Congress the results of the evaluation of research activities within 12 months after enactment, and on April 1st each year thereafter. Thus, a system of checks and balances is established with respect to research and training for which operational responsibility is assigned to RSA but priority assessment and redirection and project evaluation is left to the Secretary to carry out based on his agencywide overview.

The Secretary is also directed to develop and punish general standards for evaluation, against which he shall determine whether funds under the basic State grant program shall be denied a State submitting a State plan under the Act.

Weighted reporting and closures

Meetings have been held with officials of the General Accounting Office to discuss their findings regarding the administration of and services provided under the Vocational Rehabilitation Act in several States. Those findings indicated that not only was there reason to question the eligibility of some of the individuals being provided services under the program, but that many of the individuals served did not receive all of the services which would have benefited them. GAO findings also indicated that followup procedures were not consistent; and, for that reason, many individuals who were in fact rehabilitated and placed in employment lost that employment a short time after their cases were considered "closed". Tentative though these findings were, they do suggest that improvements are badly needed in the program.[1]

The bill specifically directs the Secretary to develop appropriate reporting and evaluation procedures which will enable the Committee to evaluate how funds are used. The Committee would like to know what services individuals receive, the duration and cost of these services, and the time individuals spent with counselors.

The Committee wishes to stress, furthermore, that it believes that more detailed information is necessary on the closure system used by State agencies. Specifically, the Committee believes it is necessary to know more about the reasons for exclusion of individuals from the State program, and the reasons why individual cases are closed and individuals not rehabilitated. Toward this end, the Senate bill requires the Secretary to submit an annual report to the Congress on the operation of the program, to be submitted not more than 120 days after the close of each fiscal year, and directs the Secretary in that report to distinguished among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, and employment as a homemaker or unpaid family worker, and to provide information on provision of comprehensive rehabilitation services to handicapped individuals.

During the hearings 9 months ago, the Administration witnesses reported that to set up a weighted closure system which would build in incentives for provision of services to severely handicapped individuals would take approximately 18 months to develop. The Committee expects the Secretary to continue the development of this system with the maximum possible speed, and to report to the Congress on the status of that system in each of his annual reports.

Given the fact that Federal and State resources for rehabilitation will be limited for the foreseeable future, thereby compelling choices to be made in terms of whom to serve, the Committee expects the Secretary and the RSA Commissioner to explore in depth and to develop appropriate measures to reach those who have the most severe physical and mental handicaps.

In line with this, the Committee would like to know more about the quality and quantity of services under the program to individuals with permanent handicapping conditions, particularly those wtih severe handicaps, such as paraplegia, hemiplegia, quadriplegia, cerebral palsy, psychosis, bilateral orthopedic conditions, deafness, blindness, and mental retardation. The Commit-

[1] The Committee wishes to express its very considerable concern that the Comptroller General has not issued his final report on this subject, the draft report for which was circulated and submitted to the agency for comment more than 8 months ago.

tee recognizes the perplexing and longstanding concern of both State vocational rehabilitation agencies and RSA to develop reasonable measures for equating the degree of difficulty faced by the agency staff in serving and rehabilitating various kinds of disabled individuals, but feels that a new system of measuring and reporting should be developed and implemented as soon as possible.

The Committee, therefore, directs the Commissioner, in the development of regulations to implement the priorities expressed in this legislation, to place special emphasis on measurement systems which will aid in defining the characteristics of those handicapped individuals to be served. In developing such measures, the Commissioner should take into account: (1) those conditions of existence which the specific disability imposes on the handicapped individual, and (2) the social and individual cost benefits which can reasonably be expected as a direct result of rehabilitation services. The latter condition shall not be construed as an attempt by this Committee to turn the rehabilitation program into a welfare program. Indeed, the Committee generally believes that the rehabilitation of welfare recipients should be funded with Social Security Act appropriations. However, the Committee also recognizes that, other conditions being similar, a handicapped individual from a welfare recipient family is likely to derive greater benefit from services under this Act than one from a wealthy family and that it is, therefore, appropriate to consider income as one of the many determinants of priority.

The Committee emphasizes that it has provided for a client assistance project program. The Committee expects this program to be implemented immediately and directs the Secretary to report on this project as soon as possible.

Sheltered workshop study

Finally, the bill directs the Secretary to undertake a comprehensive study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in such workshops. Witnesses reported that workshops provide training programs for handicapped individuals as it suits them, that training programs for handicapped individuals were often interrupted whenever the workshop obtained a new contract for that workshop and often acted as a holding ground for individuals with severe handicaps who were "dumped" at the end of 18 months when their VR funding expired, and that the best workers were retained, without attempts being made to place them.

The Committee did not believe it could act on allegations, denied by other witnesses, and generally felt constrained by a lack of good information on the functioning of workshops. It has, therefore, directed the Secretary to udertake a comprehensive study of workshops, and has subsequently acted on a resolution which details criteria for this study.

The Committee stresses that this study must be comprehensive, and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workships under this Act and the Vocational Rehabilitation Act, and the relationship between workshops and other programs for vocational training. The Committee includes the following questions which it believes should be covered in the study.

1. What should be the role of sheltered workshops or rehabilitation facilities?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work-activity centers, etc.) are now in existence? How many handicapped individuals do they employ?

3. What standards are used by vocational rehabilitation agencies to determine that a sheltered workshop is the most suitable in the community or State for training or employing a handicapped individual?

4. How many handicapped individuals are placed in workshops by State vocational rehabilitation agencies for training and evaluation? How many handicapped individuals are placed in sheltered workshops for extended evaluation?

5. How many handicapped individuals are in extended or terminal employment in sheltered workshops? What is the nature and degree of their disability?

6. What methods are utilized to determine wages for handicapped individuals in workshops?

7. How often do officials of the Wage and Hour and Public Contracts Division of the Department of Labor inspect sheltered workshops and work-activity centers to determine violations of minimum wage? How often do officials of the Department of Health, Education and Welfare and officials of State agencies inspect sheltered workshops?

8. What fringe benefits are provided to handicapped individuals in extended or terminal employment in the sheltered workshops, such as unemployment compensation, health care, and retirement plans to which other non-handicapped workshop employees are entitled?

The Committee believes it is important that this study be as comprehensive and as objective as possible, and, therefore, directs that no individual or interest group with a financial or other direct interest in workshops may be awarded a contract to undertake this study. The Committee wishes to make clear that this prohibition includes groups which have waged considerable criticism against the role of workshops as well as individuals and groups which are involved in the running and operation of workshops.

Finally, the Committee expects that a substantial proportion of title V appropriations will be used for this study. The full text of the Resolution of the Senate Committee on Labor and Public Welfare, adopted September 22, 1972, appears in the statement of managers of the Conference Report on H.R. 8395 (92nd Congress), which has been made a part of the hearing record on S. 7, and which resolution is reflective of the position of the Managers on the part of the House as well. The Committee strongly reaffirms the content of this resolution.

TITLE VI. OFFICE FOR THE HANDICAPPED

Title VI of the bill establishes an Office for the Handicapped in the Office of the Secretary of the Department of Health, Education and Welfare. This Office is directed to prepare, with the assistance and in consultation with agencies of the Department and other departments and agencies, handicapped individuals and public and private agencies and organizations, a long-range projection for the provision of comprehensive services to handicapped individuals, with the understanding that such projection shall relate individual agency plans to one another in order to provide maximum effectiveness, sensitivity and continuity in the provision of services to handicapped individuals. It should be clear that this long-range projection for services shall represent the intended direction of the Department in providing services to handicapped individuals, and shall include a plan for implementation, including the costs of such plan. The Committee, however, does not intend that this projection shall be implemented without the opportunity for Congressional review and enactment of any necessary authorizing legislation.

This Office is further directed to analyze program operation to determine progress toward meeting the goals set forth in such projection, the effectiveness of all programs providing services to handicapped individuals, and progress toward elimination of unnecessary duplication and overlap in programs under the jurisdiction of the Secretary; provide assistance to advisory committees and programs which serve agencies having responsibilities for programs for the handicapped; take steps to assure the prompt utilization of engineering and other research which will aid handicapped individuals; and evaluate existing information systems in order to develop a coordinated system of information retrieval and dissemination to the public.

The bill does not provide this Office with budget authority or policy or program control of any program, except insofar as evaluation and development of an information system and the dissemination of scientific, medical and technological information. The Committee wishes to make clear its intent that this Office is a coordinating office, which shall act as an advisor to the Secretary on the needs of handicapped individuals, and to the many programs within the Department which provide services to such individuals. The Committee has, therefore, placed this Office in the Office of the Secretary so that it may perform this advisory function, and so that the Office will have visibility and access to information about all programs run within the Department which affect handicapped individuals. The Committee does not intend, however, that any operating program shall report to or through such office to the Secretary.

The Committee has identified a number of functions that it believes are essential to the coordination of services and priorities. The first is the preparation of a long-range projection for provision of services, research, training and evaluation. Recognizing that the needs of different disability groups are vast and that the functions of the many programs in the Department diverse, the Committee believes that the identification of priorities and the relating of individual programs to these priorities are essential to avoid a scattershot of emphases which may result in far less than the services needed. The Committee believes that by concentrating on a number of goals and focussing an all out effort toward meeting these goals the Department will be better able to meet the needs of handicapped individuals.

The Committee is aware that the President, the Secretary of Health, Education, and Welfare, the Commissioners of Education, and the RSA Commissioner have proposed a series of goals for handicapped individuals in recent months. The Committee is encouraged by these actions, and believes that these ends will be met much sooner with the assistance of the new Office. The Committee does not expect this projection to take the place of program innovation and new legislation. Rather, this plan is intended to be a working document, and a guideline by which programs can measure their effectiveness. The Committee further believes that focusing on the broad needs of handicapped individuals will make very clear where new program initiative is needed, and will, in fact, stimulate new legislative proposals.

The bill further directs this new Office to analyze program operation to evaluate progress toward meeting the goals of the projection. The Committee believes that this analysis is necessary to the Secretary and to the Congress, for it believes that many individual programs within the Department are not always aware of similar programs and projects being undertaken by other agencies. The Committee wishes to make very clear, however, that it expects no program consolidation to take place as a result of this analysis and review. One fear that was raised during hearings on this legislation was that the creation of the Office would

result in program consolidation across disability group and functional responsibilities, thus resulting in a lack of sensitivity and consideration given to the different problems of disability groups. The Committee emphasizes that this is not the purpose of the Office.

The Committee expects that the Office's most powerful tool will be that of information: it will be in a central location within the Department for developing and providing information and assistance to programs for handicapped individuals. The Committee believes that the Office will perform an important function if it is aware of all programs for handicapped individuals in the Department, and is able to lead individuals in one agency working on a particular problem to other individuals in other agencies who are similarly interested. The Committee also is aware that many programs deliver services to the same individuals although it may be at different times, for different services. The Committee believes that there are too many junctures and too many problems which confront an individual with a handicap which may result in that individual falling through the cracks of different service systems. The Committee emphasizes that it is important, especially early in life, that these services be available as a continuum, and be delivered in such a way that is sensitive to all of the disparate problems which may afflict that handicapped individual. Therefore, the Committee has mandated the Office to attempt to coordinate and encourage cooperative planning of services and service delivery.

The Committee has also directed the Office (and provided a separate $300,000 appropriations authorization for FY 1973 and the three subsequent fiscal years) to evaluate all existing information and data systems which provide information to, for and about handicapped individuals, and to develop a comprehensive system of information and data retrieval and dissemination. The Committee has been distressed to discover how little information is available and is most concerned that no definitive information exists about the number of Americans with handicaps, the extent of their handicaps, and the services they are receiving. Estimates of this population vary widely and have to be compiled from separate agencies and programs if they are to be obtained at all.

The Committee found during the hearings on the Vocational Rehabilitation Act in the 92d Congress, that although needs could be expressed for various disability groups, no one knew with any degree of certainty what the size of the population was that they were representing. The Committee believes that this information is essential to program and service needs, and therefore, the Committee expects the Office to undertake this study as soon as possible in coordination with RSA activities under the new State plan requirements in title I of the bill.

The Committee is aware of over one hundred programs within the Federal Government which provide services to handicapped individuals, and more than 50 programs in the Department of Health, Education, and Welfare, itself. The Committee expects that the Office will become an advocate for the handicapped with respect to the programs within the Department, and will attempt to relate these programs also to other programs which are administered by the Department of Housing and Urban Development, the Veterans' Administration, and other Federal agencies. Because, the Committee believes that handicapped individuals themselves are often their own best advocates, the Committee has directed the Secretary in selecting all personnel for the individuals to perform these tasks.

The Committee strongly believes that coordination across programs has become essential and therefore expect the Secretary to establish this Office, and hire personnel to fill the positions within this Office as soon as possible.

The Committee has been concerned over the growth in numbers of programs for handicapped individuals. While this growth has been necessary to ensure that handicapped individuals receive their fair share of resources from Federal programs and to ensure consideration of the particular problems of handicapped individuals, it has resulted in duplication of efforts, confusing priorities and a dilution of services for these individuals. The Committee points out that it has been faced with one of two strategies in trying to ensure that handicapped individuals are served by Federal programs: it has had either to earmark money within a program for the handicapped, or to provide separate authority for a program for handicapped individuals. The Committee need only point out the difficulty it has had in trying to ensure that programs run under the Office of Child Development, specifically Head Start, serve handicapped children. After much effort was expended in trying to get this compliance without legislation, the Committee in the 92d Congress had to include legislative language directing the Secretary to ensure that at least 10% of all enrollment opportunities in the Head Start program are available for handicapped children. The Committee emphasizes that this is only one example.

In addition, there are programs administered by different agencies which could benefit from coordination because they deliver the same or similar services to individuals. Rather than providing the focus on comprehensive needs of handicapped individuals, lack of coordination has led to a diversity of purpose and a failure to provide services to as many individuals as possible.

The Committee believes that it is time for all programs to examine their priorities and to develop coordinated approaches so that individuals to whom services are delivered receive the full benefit of all programs, and do not have to extend the effort themselves to coordinate all of the services that are available to them. There are obvious areas in program planning where needs could be met jointly, and where coordination and joint funding could help effect a comprehensive services system which would reduce uncertainty in the field, and create new models for service systems to solve severe gaps in service.

The Committee has been concerned that insufficient utilization is made of the results of scientific, medical and technological research which could alleviate the effects of handicapping conditions. It has, therefore, charged the Office with developing methods to ensure more prompt use of such research and technology. The Committee expects that the Office will explore alternate methods of provision of this technology to handicapped individuals, and will look into all related problems. The Committee believes that many new devices and techniques have been developed which could ease the lives of handicapped individuals, and that the Federal Government must find a way to ensure that handicapped individuals have access at minimal cost to these devices.

TITLE VII. MISCELLANEOUS

Repeal of Prior Law

Under this title, the existing Vocational Rehabilitation Act (29 U.S.C. 31–42) is repealed upon the date of enactment of this Act and any unexpended sums under that statute may be used under this Act as directed by the President. Activities which are ongoing at the present time shall be insured continuity by continuing their funding. There is continuing authority for such activities in the new Act.

Federal Interagency Committee on Handicapped Employees

The Committee recognized the need for this type of committee on employment after the hearings divulged what it considered, at best, a divergent hit-or-miss type of Federal employment policy for handicapped individuals. The President's Committee on the Employment of the Handicapped stated in testimony that it was their function to create a climate for employment in the public and private sector. There appears to be no comprehensive statistics available on the part of all agencies within all branches of Federal service

The bill requires that there be established a committee which will initiate an affirmative action plan for and seek to insure that there is no discrimination in employment of handicapped individuals by and within the agencies of the Federal Government in hiring, placement, or advancement. The Committee is also directed to insure that the special needs of handicapped individuals are being met on the job. The bill directs each department and agency within the executive branch to submit a report to the Interagency Committee within 180 days of enactment of this bill. The Committee shall submit at the end of each fiscal year to the appropriate Committee of Congress a report on its activities and recommendations so that they may be further evaluated for possible legislative or administrative action. The report will include any legislative action that the committee feels would enhance employment and advancement of handicapped and severely handicapped individuals in Government service.

The Committee is also directed to recommend policies to state and local governments and other public and private employers with respect to employment of handicapped individuals. The President's Committee on Employment of the Handicapped will provide staff support for the Interagency Committee which shall be chaired by the Secretary of HEW. The Chairman of the Civil Service Commission will serve as Vice-Chairman. The Committee feels that the CSC's past experience in this area will be of vital importance to such a committee. The bill also requires an annual report from the Committee and also specifies that handicapped individuals employed in Federal unpaid work experience programs shall not be deemed Federal employees for purposes of Federal personnel laws and regulations generally.

Cooperation among Federal agencies

As requested by the President's Committee on the Handicapped, the bill directs the Secretaries of HEW and Labor to cooperate with the President's Committee as it carries out its functions. The bill also increases the present continuing annual appropriation authorization of $1 million for the President's Committee to $1,250,000 in FY 1974. It is not the Committee's intention by this action to alter in any way the effectiveness of the continuing authorization of appropriations for the President's Committee after FY 1974.

Architectural and Transportation Barriers Compliance Board

The Committee is aware through testimony on this legislation, not only of strong attitudinal barriers, but also enormous physical barriers to the mobility of the handicapped individual. The Commitee strongly believes that a new Federal board is necessary to insure compliance with the present Federal statutes regarding architectural barriers since compliance has been very spotty and there is no such comparable compliance unit in existence at this time. Such a unit will enhance the effectiveness of the other provi-

sions of the bill since even the maximum employment opportunities for the handicapped were fully created, they could not be filled without the ability of handicapped individuals to get to their jobs. Barrier-free design in Federal buildings and in Federally-assisted projects is mandated in present law, but has never been adequately enforced. The Committee feels that to justify the expenditures authorized under this bill it is imperative that handicapped individuals be given the opportunity to move freely in the society into which they must integrate themselves. The Committee feels this Board can serve to accomplish this.

In connection with this provision, the Committee is aware that the obligation to eliminate architectural barriers to handicapped individuals' access to Federal buildings weighs even heavier upon the Congress in the control of its own buildings. If we are to require assurances that all Federally controlled or assisted facilities be fully accessible to handicapped persons, we must perforce put our own house in order. The Capitol Hill complex should stand as a model of accessibility.

It is for this reason that by unanimous agreement of the Subcommittee on the Handicapped, Subcommittee Chairman Jennings Randolph wrote the Architect of the Capitol urging him to undertake, as soon as possible, "remedial action through which the Capitol, the Senate Office Buildings, and the House Office Buildings, may be improved for the purpose of providing full access for handicapped individuals to all areas of such buildings." The Subcommittee met on February 21 with the Architect to follow up on this letter and to devise a procedure for implementing this goal on a short-term and longer-term basis. With the Architect's cooperation, the Committee intends to continue to pursue this matter to a satisfactory conclusion.

National Commission on Transportation and Housing

The bill establishes a national commission to study how better to meet the needs of handicapped individuals in both housing and transportation. Membership of the commission is set at 15, and the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of the Treasury are designated as ex officio members. It is the feeling of the Committee that there has been much done by public and nonprofit groups, as well as by RSA under their 1968 authority in studying these needs, but that there has always been a lack of coordinative effort in the field. It is felt that this commission, working closely with the architectural barriers compliance board, also provided for in the bill, can do much to consolidate the information that is already available, as well as initiate new studies, and that this can be translated into meaningful action through the compliance board. The Committee also found that the area of housing for handicapped individuals has long been neglected and wishes to point out that this area is one which it expects the commission to investigate thoroughly.

Employment under Federal contracts and nondiscrimination under Federal grants

Further provided for in this title is that any qualified handicapped individual shall be given full and fair consideration for employment by any contractor who seeks to contract with the Federal Government. The President is required to issue regulations ninety days after enactment of this bill to insure that there is an affirmative action plan implemented to this effect. The bill further provides that a handicapped individual who has a discrimination complaint against a Federal contractor may file a complaint with the Department of Labor.

The bill further proclaims a policy of nondiscrimination against otherwise qualified handicapped individuals with respect to participation in or access to any program which is in receipt of Federal financial assistance.

Appropriations for fiscal year 1973

The Committee added section 706 to the bill to make certain technical corrections in citations to this Act in the Supplemental Appropriations Act, 1973 (P.L. 92-607).

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (P.L. 91-510), the Committee estimates that if all funds authorized were appropriated during fiscal year 1973 and the three succeeding fiscal years, the five-year costs occasioned by S. 7, as reported, would be as follows:

TABLE II.—REHABILITATION ACT OF 1972 (AS REPORTED)

[Millions of dollars]

	Fiscal years—				
	1973	1974	1975	1976	1977
Title I, Vocational rehabilitation services:					
Part B, basic services	800.00	975.00	975.00		
Part C, innovation and expansion grants	50.00	60.00	75.00	75.00	
Title II, comprehensive rehabilitation service	20.00	50.00	80.00	80.00	
Title III, special Federal respons.:					
Construction grants (301)	17.50	40.00	45.00	45.00	
Vocational training services (302)	15.00	35.00	40.00	40.00	
Mortgage insurance (303)	(1)	(1)	(1)	(2)	
Annual interest grants (304)	1.00	3.00	7.00	7.00	
Special project and demonstration (305)	[3] 25.00	[3] 75.00	[3] 100.00	[3] 150.00	
Center for deaf-blind (306):					
Construction	5.00				
Operations	.80	1.20	2.00	2.00	
Centers for deaf Inds. (307)	2.00	4.00	7.00	7.00	
Centers for spinal cord injuries (308)	15.00	25.00	30.00	30.00	
End-stage renal disease (309)	15.00	25.00	25.00	25.00	
Older blind individuals (310)	7.50	20.00	30.00	30.00	
National Advisory Council (311)	.10	.15	.15	.15	
State advisory councils (312)	1.00	2.00	2.00	2.00	
Title IV, research and training:					
Research (402)	45.00	75.00	100.00	150.00	
Training (403)	35.00	50.00	75.00	100.00	
Title V, administrative and progress project evaluation	[4] 1.00	[4] 2.00	[4] 2.00	[4] 2.00	
Title VI, Office for the Handicapped	1.30	2.30	2.30	2.30	
Title VII, miscellaneous:					
Interagency Employment Committee (701)	1.00	1.25			
Compliance Board (703)	1.00	1.25	1.50	1.50	
Yearly total	1,059.20	1,447.15	1,598.95	748.95	
Grand total (4 years)			4,854.25		

[1] Such sums: Limit of $250,000,000 on total mortgages insured.
[2] Such sums: Plus amounts for migrants.
[3] Plus amounts for migrants.
[4] Or ½ percent of appropriations under titles I–IV, whichever is greater, does not include "such sums" for administration.

TABLE III.—*Vocational rehabilitation act authorizations in current law (fiscal year 1972)*

	Amount
Vocational rehabilitation services	$700,000,000
Innovation project grants	10,000,000
Research, demonstration training, expansion	140,000,000
Construction and staffing	30,000,000
Rehabilitation facility improvement	30,000,000
Vocational evaluation and work adjustment	100,000,000
National Center for Deaf-Blind	(1)
Migratory agricultural worker grants	(1)
Total	1,010,000,000

[1] No authorization provided in law.

TABULATION OF VOTES IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of roll call votes in Committee:

(1) Amendment to reduce certain appropriations authorizations, substitute of Senator Cranston (to reduce Special projects by $50 million each for FY 1974 and FY 1975; Research by $25 million for FY 1974 and $50 million for FY 1975; and Training by $25 million each for FY 1974 and 1975) for amendment of Senator Dominick (to reduce Special project by $75 million each for FY 1974, 1975 and 1976; Research by $25 million for FY 1974, $75 million for FY 1975, and $50 million for FY 1976; and Training by $25 million each for FY 1974, FY 1975, and 1976) (Agreed to, 11–4).

YEAS

Senator Williams
Senator Randolph
Senator Pell
Senator Kennedy
Senator Nelson
Senator Mondale
Senator Eagleton
Senator Cranston
Senator Hughes
Senator Hathaway
Senator Schweiker

NAYS

Senator Dominick
Senator Taft
Senator Beall
Senator Stafford

(2) Amendment by Senator Dominick to reduce appropriations authorization level for basic State grants (by $50 million for

FY 1973, $175 million for FY 1974 and $125 million for FY 1975) under part B of title I (Defeated, 4–11).

YEAS

Senator Dominick
Senator Taft
Senator Beall
Senator Stafford

NAYS

Senator Williams
Senator Randolph
Senator Pell
Senator Kennedy
Senator Nelson
Senator Mondale
Senator Eagleton
Senator Cranston
Senator Hughes
Senator Hathaway
Senator Schweiker

(3) Motion by Senator Randolph to report the bill (Agreed to, 16–0).

YEAS

Senator Williams
Senator Randolph
Senator Pell
Senator Kennedy
Senator Nelson
Senator Mondale
Senator Eagleton
Senator Cranston
Senator Hughes
Senator Hathaway
Senator Javits
Senator Dominick
Senator Schweiker
Senator Taft
Senator Beall
Senator Stafford

NAYS

None.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The first section designates the bill and its table of contents as the "Rehabilitation Act of 1972". By retaining (from H.R. 8395 of the 92d Congress) the "1972", enactment of this Act will activate the availability of the full $610 million appropriated for carrying out "The Rehabilitation Act of 1972" in the Supplemental Appropriations Act, FY 1973 (P.L. 92–607).

SECTION 2

This section describes the purposes of the Rehabilitation Act of 1972 by delineating in general terms the goals of most of its provisions, including the provision of vocational and comprehensive rehabilitation services to handicapped individuals, serving first those with the most severe handicaps, evaluation and rehabilitation potential, construction of facilities, research and training, innovation and expansion of services, and studies of various areas of need, including elimination of architectural and transportation barriers.

SECTION 3

This section provides a statutory basis for the Rehabilitation Services Administration (RSA) in its own right. The sole authority to administer titles I, II, III and IV of this Act is vested in the Commissioner of RSA. In order to prepare RSA for its expanded role, the number of full-time personnel authorized for the Administration is increased by sixty over current levels, and the number of so-called supergrade positions (GS 16, 17, and 18) assigned to RSA is increased by ten.

Established within RSA is a Division of Research, Training, and Evaluation, which will contain a Center for Technology Assessment and Application to develop and support new methods to solve rehabilitation problems and to administer research activities under section 402(b)(3).

SECTION 4

Authority for forward funding is provided in this section so that funds may be appropriated one year prior to the fiscal year to which they apply and for which they are to be obligated. The section permits, for the purpose of transition to the forward-funding concept, appropriations in the first year for both that year and the next succeeding fiscal year. Thus, for example, appropriations may be enacted during this fiscal year for both fiscal year 1973 and 1974.

SECTION 5

This section provides that where more than one Federal agency provides funds for a single project to an agency or organization assisted under this Act, the President may, pursuant to regulations consistent with the provisions of this Act, designate as the single agency to administer such funds the agency which is providing the principal share of the funds. A single non-Federal share requirement may be established, and if RSA is the principal agency, it may waive grant or contract requirements governing the other agency which are inconsistent with those under this Act.

SECTION 6

This section authorizes States to submit a consolidated rehabilitation plan which includes its developmental disabilities program, provided that the agency administering such program in the State concurs and that the consolidated plan meets all requirements under this Act and The Developmental Disabilities Services and Facilities Construction Amendments of 1970. The Secretary may approve such a plan or he may advise that separate plans be submitted.

SECTION 7

This section provides the definitions applicable to all the operative provisions of the Act.

(1) "Comprehensive rehabilitation services" means those services provided under title II, III, or IV to a handicapped individual, which will help improve his ability to live normally or function independently.

(2) "Construction" means construction of new buildings, acquisition, expansion, remodeling or alteration of existing buildings, and provision of initial equipment. The cost of such construction includes architects' fees and land acquisition.

(3) "Criminal act" is a crime posing a substantial threat of personal injury, regardless of the legal capability of the perpetrator to commit a crime.

(4) "Establishment of a rehabilitation facility" means acquisition, equipment, or improvement of existing buildings to adapt them to rehabilitation purposes subject to regulations of the Commissioner to prevent duplication or impairment of other Federal laws assisting such facilities. The term may also include initial staffing.

(5) "Evaluation of rehabilitation potential" is a term which includes the various diagnostic studies and services utilized to ascertain the services and goals needed for appropriate and complete rehabilitation of handicapped individuals, and includes extended evaluation for periods up to 18 months with reassessment at least once in every ninety-day period.

(6) "Federal share" means 80 per centum except that for part C of title I and title II, it means 90 per centum and for construction grants it is determined in accordance with section 301(b)(3).

(7) "Handicapped individual" means one whose physical or mental disability constitutes for such individual a substantial handicap to employment, and who can be expected to benefit from vocational or comprehensive rehabilitation services.

(8) "Local agency" means a local government or Indian tribal agency which, under agreement with and supervision by a State agency, conducts a vocational rehabilitation program.

(9) "Nonprofit" means, as related to rehabilitation facility, a facility which is exempt from payment of Federal income taxes.

(10) "Public safety officer" means a Federal, State or local official whose activity relates to enforcement of laws, a correctional program or facility or a court where the activity is potentially dangerous, or fire fighting or rescue.

(11) "Rehabilitation facility" means one whose primary purpose is to provide vocational and comprehensive rehabilitation services, which provides one or more such services. The definition includes a list of services which are provided by such facilities, including speech and hearing therapy (which shall be construed to include appropriate speech and hearing testing and diagnosis).

(12) "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(13) "Severe handicap" is a disability requiring multiple services over extended time, resulting from a number of handicapping conditions such as amputation, blindness, spinal cord injury, deafness and others.

(14) "State" includes all U.S. possessions and territories, the District of Columbia, The Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

(15) "Vocational rehabilitation services" means the services identified in section 103 provided under this Act.

SECTION 8

This section specifies the "allotment percentage" used in the formula for allocation of funds to States under the Act, requires the Secretary to update such percentages every two years, and specifies how the population of States and of the United States shall be determined.

SECTION 9

This provision requires grant recipients to keep such records as the Secretary may prescribe, including amounts and disposition of funds received, and other records to facilitate an effective audit. The section authorizes access by the Secretary and Comptroller General to any books or records pertaining to such grants.

SECTION 10

This section requires that expenditures under a State plan financed by other Federal funds and any non-Federal funds shall be disregarded in determining the amount of a State's Federal share. Duplication of payment through different provisions of this Act is prohibited.

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

SECTION 100

This section sets forth the purpose of title I and authorizes appropriations for grants under part B of title I in the amounts of $800,000,000 for FY 1973, and $975,000,000 each for FY 1974 and FY 1975.

Appropriations for innovation and expansion grants under section 120 are authorized in the amounts of $50,000,000 for FY 1973, $60,000,000 for FY 1974, and $75,000,000 each for FY 1975 and FY 1976.

SECTION 101

(a) This subsection details the requirements to be met by the States in developing State plans for the provision of rehabilitation services under title I and title II. Approval of such annual plan by the Commissioner is required prior to the release to a State of funds under the Act.

(1)(A) A single State agency must be designated to administer the plan, except that,

if there is a State agency for the blind, that part of the plan relating to the blind may be administered by such agency for the blind. The Secretary may waive the sole agency requirement where a State wishes to carry out a joint program with another State or local agency.

(1)(B) The single State agency must be primarily concerned with vocational rehabilitation of handicapped individuals, or with education or vocational education, or be an agency which includes at least two other major units which administer education, health, welfare, or labor programs in the State.

(2) The State agency must conform to certain organizational and staffing requirements under this provision.

(3) The plan must provide for the required financial participation by the State, and, if it elects, political subdivisions.

(4) The plan must be in effect in all political subdivisions, which requirement the Secretary may waive under certain conditions.

(5)(A) The plan must detail the plans, policies, and methods to be followed by the State in providing vocational and comprehensive rehabilitation services, including an order of selection (not inconsistent with a national order prescribed by the Commissioner) for selection of recipients for such services, and specification of outcomes and services goals, and such order of selection for vocational rehabilitation services shall be based on serving first those with the most severe handicaps.

(5)(B) Satisfactory assurances must be provided that the State has considered a variety of means of providing services to those with the most severe handicaps.

(6)(A) The plan must contain plans, policies, and methods for providing comprehensive rehabilitation services under title II.

(6)(B) Satisfactory assurances are to be made that no comprehensive services shall be funded unless maximum efforts have been made to secure assistance from other sources.

(7) The plan must provide for approved methods of administration.

(8) The plan must set forth personnel standards, consistent with State licensure laws, including minimum standards governing rehabilitation facilities and personnel.

(9) The plan must assure that the State will provide the vocational rehabilitation services identified in section 103(a)(1) through (3), and provide the remainder of such services after full consideration of eligibility for such services under other programs, except that such consideration of alternatives need not be given for services under clauses (4) and (5) where such consideration would delay provision of such services.

(10) The State plan must provide that an individualized written rehabilitation plan will be developed for each individual served, that services will be provided pursuant thereto and, that records of ineligible applicants be kept which give the reasons for ineligibility.

(11) The State agency is required to make such reports on a timely basis as the Commissioner may reasonably require, including estimates of the handicapped population within the State, numbers to be served, outcomes and goals for each priority category, and service costs.

(12) The State plan must provide for entering into cooperative arrangements, involving services and facilities, with State agencies administering public assistance, veterans, manpower, and employment, and other related programs, with comparable Federal agencies, and with other Federal, State, and local public agencies.

(13) The plan must require maximum utilization of public or other vocational or technical training facilities and resources in the community for the provision of services.

(14)(A) The plan must assure that any civil employee of the United States may have access to services on the same basis as any other handicapped individual.

(14)(B) This provision requires that special consideration be given to rehabilitation of public safety officers handicapped in the line of duty because of a criminal act or hazardous condition.

(15) The plan must prohibit the imposition of any residency requirement excluding services to any individual present in the State.

(16) The plan must provide for continuing statewide studies of the needs of handicapped individuals and the means of meeting such needs, including the needs of all significant segments of the handicapped population and expanding services to those with the most severe handicaps.

(17) The plan must provide for periodic review and reevaluation of the status of handicapped individuals in extended employment in workshops and other rehabilitation facilities so that such individuals may, where appropriate, be employed or trained for employment in the competitive labor market.

(18) The plan must provide that the Federal share of the cost of construction of rehabilitation facilities shall not exceed an amount equal to 10 per centum of the total allotment to the State in any year, that contract requirement the provisions of section 313 shall apply, and that the State will maintain its efforts to provide such services and not reduce them because of construction.

(19) The plan must assure that the views of recipients, and of workers in, and providers of, vocational and comprehensive rehabilitation services are taken into account by the State and local agencies in administering the plan.

(20)(a) The plan must assure that the studies required by clause (16) and an annual evaluation of the program will form the basis for amendments to the State plan.

(b) This subsection requires the Commissioner to approve any plan which meets the requirements of subsection (a) and to disapprove plans which do not meet such requirements. The Commissioner is to give notice and opportunity for hearing where he intends to disapprove a plan.

(c) This subsection directs the Commissioner, after notice and hearings, to discontinue, reduce, or partially suspend payments to a State under this title in the event that any of the requirements of subsection (a) are not being met.

(d) This subsection provides that States may obtain judicial review of any action taken by the Commissioner under subsections (b) or (c).

SECTION 102

(a) This subsection requires the Secretary to insure that the individualized written rehabilitation program required under section 101(a)(10) is jointly developed by the vocational rehabilitation counselor or coordinator and the handicapped individual.

(b) Such program shall be reviewed annually, and shall include a statement of goals and other requirements. The individual shall be afforded an opportunity to review his program annually and renegotiate its terms. Contents of such programs are specified in this subsection.

(c) Subsection (c) requires the written program to emphasize a vocational goal or objective for the individual, and where it is determined that no such goal can be met, safeguards are required to insure that such a determination is absolutely necessary. Such a determination must be reviewed at least once each year.

SECTION 103

This section lists the vocational rehabilitation services which are provided under title I. Such services include the following: evaluation of rehabilitation potential; individualized rehabilitation written programs; counseling, guidance, referral, and placement services; training services including personal and vocational adjustment and family services (but higher education may not be provided unless maximum efforts have been made to obtain other assistance); physical and mental restoration services (including a list of such services); maintenance during rehabilitation; interpreter services and reader services; recruitment and training services in public service fields; teaching orientation, and mobility services for the blind; trade necessities; transportation; and telecommunications, sensory, and other technological aids and devices. When provided to groups of individuals, such services also may include management services, equipment, and initial supplies, and construction or establishment of rehabilitation facilities.

SECTION 104

This section permits inclusion in the non-Federal share of private contributions of funds in determining amounts of payments to States under part B of title I.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

SECTION 110

(a) This subsection provides the allotment formula for allocation of funds to the States for title I services. The formula is determined by multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States. Adjustments are to be made for any State including the District of Columbia and Puerto Rico allotted less than ¼ of 1 per centum or $2,000,000, whichever is greater. The formula is identical to that contained in the existing Vocational Rehabilitation Act, except for a raise of the minimum from $1 to $2 million and the applicability of the minimum to Puerto Rico.

(b) The Secretary may transfer funds not used by one State to one or more other States. Such additional sums reallotted to a State are deemed to be an increase in such State's allotment for that year.

SECTION 111

This section requires the Commissioner to pay grants under title I to States with approved plans, limited in amount to allotment under section 110(a). Payments shall be reduced where non-Federal funds expended are below those in fiscal year 1972. The section outlines the means by which payment estimates are to be made by the Commissioner, and requires quarterly adjustments to such payments.

SECTION 112

(a) This subsection requires the Commissioner to set aside from special project funds under section 305 not less than $1 million nor more than $2.5 million for fiscal year 1973, and $5 million for fiscal years 1974, 1975, and 1976, to establish between 10 and 20 geographically dispersed client assistance pilot projects.

(b) This subsection requires the Commissioner to promulgate regulations which include (1) project employees may not be staff, consultant, or beneficiaries of any rehabilitation program, (2) staff shall have reasonable access to policy-making personnel in State and local programs, (3) projects will submit annual reports through the State agency to the Commissioner, (4) State agencies may secure graduate students in clinical training for such projects, but no funds under this Act may be used to compensate such students, (5) the State agency shall assure that clients may avail themselves of project services without pressure or discouragement, and (6) the project is to be controlled by the State agency.

PART C—INNOVATION AND EXPANSION GRANTS

SECTION 120

(a) This subsection establishes State allotments on the basis of population, with a minimum allotment to any State of $50,000. The Secretary shall pay a portion of the cost of planning, preparing for, and initiating programs for services to severely handicapped individuals, and to classes of handicapped individuals with unusual and difficult problems of rehabilitation, particularly those who are poor. Grants to be used for direct services or for establishing facilities must be approved by the State agency administering the plan.

(b) This subsection provides that the Secretary may transfer unused funds from one State to another State or other States, the additional funds so transferred shall increase such State's allotment for that year.

SECTION 121

(a) This subsection directs the Commissioner to pay to each State, or to another designated agency, a portion of the cost of planning, preparing for, and initiating programs to expand services to handicapped individuals, including those with the most severe handicaps, and to those with unusual and difficult rehabilitation problems, especially handicapped individuals who are poor. The Commissioner has the right to approve projects representing up to 50 per centum of a State's allotment. Payments may be made for three years. The Commissioner may require that no more than 50 per centum of a State's allotment under this section shall be expended for projects approved by him, the remainder to be expended in accordance with priorities established by the State consistent with the provisions of this section.

(b) This subsection provides that payments of such grants may be made for up to three years for any project, and the Federal share may not exceed 90 per centum.

TITLE II—COMPREHENSIVE REHABILITATION SERVICES

SECTION 200

(a) This subsection sets forth the purpose of the title: to authorize grants to assist States in developing and implementing plans to meet the needs of handicapped individuals for whom a vocational goal is not possible or feasible.

(b) Appropriations of $20 million for fiscal year 1973, $50 million for fiscal year 1974, and $80 million each for fiscal year 1975 and fiscal year 1976 are authorized.

SECTION 201

(a) This subsection entitles States to an allotment of funds to provide comprehensive rehabilitation services, based on population times allotment percentage, with a minimum of $150,000 for each State.

(b) This subsection requires transfers of unused funds from one State to one or more other States when the initial grantee State cannot utilize all of its grant amount, such an increase to be counted as part of the receiving State's allotment for such year.

(c) This subsection specifies that if appropriations in any fiscal year are less than $20 million for title II, the Commissioner shall award funds on a project grant, not a formula grant, basis.

SECTION 202

This section directs the Commissioner to pay a Federal share of 90 per centum for expenditures for a State under its programs approved as part of its State plan.

SECTION 203

This section provides that a State, to be eligible to receive grants under this Act, must submit an amendment to its State plan within 180 days after enactment, which sets forth its program for comprehensive rehabilitation services. State plans submitted for subsequent fiscal years must include such a program. Other program requirements similar to those imposed by section 101 are listed.

SECTION 204

This section provides that the Commissioner may retain 10 per centum or $500,000, whichever is smaller, for special project grants for research, demonstration, and training.

SECTION 205

This section provides for purposes of title II only, a definition of "rehabilitation" achieving as substantial improvement in the ability to live independently or function normally with family or community.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

SECTION 300

This section sets forth the purposes of title III by briefly describing each section therein.

SECTION 301

(a) This subsection authorizes appropriations for construction, planning, and initial staffing of rehabilitation facilities in the amounts of $17,500,000 for FY 1973; $40,000,000 for FY 1974; and $45,000,000 each for FY 1975 and FY 1976. Amounts so appropriated shall remain available for expenditure until July 1, 1978.

(b) This subsection authorizes the Commissioner to make construction grants to States and public and private nonprofit organizations. Approval is conditioned on conformity with the general provisions in section 313. The Federal share of the cost of construction is specified to be the same as that for rehabilitation facilities under section 645 of the Public Health Service Act. That Act provides, with respect to rehabilitation facilities, that the Federal share is an amount determined by the State agency, but not more than 66⅔ per centum, or the State's allotment percentage, whichever is lower, with a minimum of 50 per centum. An exception, under which the Federal share may be up to 90 per centum (which includes the Federal share described above plus an incentive per centum) is provided for projects which are determined by the Commissioner to provide services primarily for persons in a rural or urban poverty area.

(c) This subsection authorizes the Commissioner to make grants for the initial staffing of rehabilitation facilities constructed after enactment of this Act, in amounts not exceeding 75 per centum of professional or technical staffing costs in the first 15 months of operation, 60 per centum of such costs for the following year, 45 per centum of such costs for the second following year, and 30 per centum for the third following year.

(d) The subsection authorizes grants for planning rehabilitation facilities.

SECTION 302

(a) This subsection authorizes appropriations for grants to provide vocational training services to handicapped individuals in the amounts of $15,000,000 for FY 1973; $35,000,000 for FY 1974; and $40,000,000 each for FY 1975 and FY 1976.

(b) This subsection authorizes the Commissioner to pay up to 90 per centum of the cost of training services in rehabilitation facilities, to include occupational skill training, work evaluation and testing, provision of tools and equipment, job tryouts, and payments of weekly allowances. Allowances may not be paid to an individual for more than two years, and shall not exceed $30 per week plus $10 for each dependent, or $70, whichever is less. Grants may be made only if the project's purpose is to prepare the handicapped individual for gainful employment; if those to be trained are deemed suitable for such purpose by the State agency; if the full range of training services is available to all; and if the project meets other requirements the Commissioner may prescribe.

(c) This subsection authorizes the Commissioner to make grants to rehabilitation facilities to improve management effectiveness and other assistance to improve the operation of such facilities, but prohibits grants under this subsection being used for construction.

SECTION 303

(a) This subsection states the purpose of this section: to assist and encourage the provision of program facilities for handicapped individuals.

(b) This subsection lists certain terms and relates them to the National Housing Act definitions.

(c) This subsection authorizes the Commissioner, in consultation with the Secretary of HUD, and subject to section 313, to insure up to 100 percent of any mortgage under this section except those whose interest is tax exempt.

(d) This subsection sets forth the conditions and detailed limitations on mortgages insurable by the Commissioner. Mortgage amounts may not exceed 90 percent of estimated replacement cost.

(e) This subsection directs the Commissioner to fix and collect premium charges for insurance of mortgages, and to charge reasonable amounts for appraisal.

(f) This subsection authorizes the Commissioner to release mortgage liens on such terms and conditions he shall prescribe.

(g) This subsection gives the Commissioner the same functions, powers, and duties concerning mortgage insurance under this section as the Secretary of HUD has under the National Housing Act, and allows the Commissioner by formal agreement to delegate to the Secretary of HUD authority to administer this section and section 304. The subsection also makes applicable portions of section 207 of the National Housing Act.

(h) This subsection creates a Rehabilitation Facilities Insurance Fund, administered by the Commissioner as a revolving fund. Expenses of carrying out this section are charged to the fund. Amounts not needed for current operations may be invested or deposited in the Treasury. Premium charges, appraisal fees, and other insurance fees are deposited in the fund. The subsection also authorizes for initial capital the appropriation of such sums as are necessary, but outstanding mortgages may not exceed $250 million.

SECTION 304

(a) This subsection authorizes the Commissioner, subject to the general provisions of section 313, to pay annual interest grants to States and agencies to reduce borrowing costs related to mortgages for construction of rehabilitation facilities.

(b) This subsection authorizes such grants for up to forty years in an amount sufficient to reduce by 4 per centum the net annual interest rate, or one-half of such rate, whichever is the lesser.

(c) This subsection authorizes the appropriation of such sums as are necessary, and limits contracts for payment of annual interest grants to the amount appropriated for such purpose. The total of grants under this section may not exceed $1,000,000 for grants entered into during FY 1973; $2,000,000 for grants entered into prior to June 30, 1974; and $4,000,000 for grants entered into prior to June 30, 1975. The effect of this limitation is to limit the U.S. liability to $160 million over the next 43 fiscal years.

(d) Not more than 15 per centum of the funds expended under this section may be used in any one State in any year.

SECTION 305

(a) This subsection authorizes appropriations for special projects and demonstrations (and research and evaluations related

thereto) in the amounts of $50,000,000 for FY 1973; $75,000,000 for FY 1974; and $100,000,000 for FY 1975 and $150,000,000 for FY 1976. Ten per centum of amounts appropriated shall be available for making grants for migratory and seasonal agricultural workers under subsection (d), and additional appropriations are authorized for this purpose up to a total of $10,000,000 ($5,000,000 for FY 1973) for both the earmarked and separate appropriation amounts.

(b) This subsection specifies the special projects demonstrations for which grants are authorized, subject to the general provisions in section 313, as including establishment of facilities and services to expand or improve rehabilitation services to handicapped, and especially severely handicapped, individuals, and application of new types or patterns of services or devices.

(c) This subsection authorizes the Commissioner to make grants to a State or local agency to pay up to 90 per centum of the cost of providing services to handicapped migratory agricultural workers or seasonal farmworkers and their families, including maintenance and transportation. The grantee must cooperate with other agencies skilled in providing services to such workers, and administration of this provision shall be coordinated with other Federal laws dealing with such workers.

(d) This subsection authorizes the Commissioner to make contracts with employers and organizations to carry out employment programs for handicapped individuals.

(e) This subsection authorizes the Commissioner to provide, by contract or directly, technical assistance to rehabilitation facilities, and, with respect to removal of architectural barriers, to any agency. Experts or consultants are authorized compensation up to GS–18.

SECTION 306

(a) This subsection authorizes appropriations for the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, in the amounts of $5,000,000 for construction and $800,000 for operations for FY 1973; $1,200,000 for operations for FY 1974; and $2,000,000 each for operations for FY 1975, and FY 1976.

(b) This subsection authorizes the Commissioner, subject to the general provisions of section 313, to enter into an agreement to pay the costs of construction, equipment, and operation of a vocational rehabilitation center to demonstrate methods of providing services to, and training personnel to provide such services for, deaf-blind individuals; to conduct research in rehabilitation problems of deaf-blind individuals; and to improve public understanding of problems of deaf-blind individuals.

(e) This subsection provides that an agency desiring to participate shall submit a proposal to the Commissioner, who shall gave preference to proposals which promise maximum effectiveness in operating the center, and promise of the most skill and capability in providing a broad service program for deaf-blind individuals.

SECTION 307

(a) This subsection provides authorization of appropriations for grants for Rehabilitation Centers for Deaf Individuals, and expansion and improvement of vocational and comprehensive rehabilitation services for deaf individuals, in the amounts of $2,000,000 for FY 1973; $4,000,000 for FY 1974; and $7,000,000 each for FY 1975 and FY 1976.

(b) This subsection authorizes the Commissioner, subject to the general provisions of section 313, to make grants for payment of the cost of construction of centers to rehabilitate and maximize the vocational potential of deaf individuals, for training professional and allied personnel to provide such services, for conducting research in the nature and prevention of problems of deaf individuals whose maximum vocational potential has not been achieved, and for improving the public's understanding of the assets and problems of deaf individuals.

(c) This subsection requires an agency or organization desiring to receive a grant under this section to submit a proposal as required by the Commissioner, who shall give preference to those proposals offering maximum effectiveness in the organization of a Center and the most substantial ability in providing a broad program of service, research, training, and related rehabilitation activities for deaf individuals whose maximum vocational potential has not been achieved.

(d) This subsection requires the Commissioner to prescribe regulations to determine the population of deaf persons whose maximum vocational potential has not been achieved, require coordination between the agency receiving funds and the State and local agencies, and provide for establishment of an advisory board.

(e) This subsection specifies that to receive services under this section, a deaf individual must be 16 years of age, be beyond compulsory school attendance age, and not have achieved his maximum vocational potential.

(f) This subsection requires that programs under this section are to be coordinated with programs carried out by the Bureau of Education for the Handicapped to achieve a consistent educational philosophy and continuity of services, and to avoid unnecessary duplication or overlap.

SECTION 308

(a) This subsection authorizes appropriations for establishing National Centers for Spinal Cord Injuries, in the amounts of $15,000,000 for FY 1973, $25,000,000 for FY 1974, and $30,000,000 each for FY 1975 and FY 1976.

(b) This subsection authorizes the Commissioner, subject to the general provisions of section 313, to enter into an agreement to pay costs of establishing centers to provide vocational and comprehensive rehabilitation services and acute medical care to spinal cord injured individuals, to assist in meeting the costs of such services, to study methods used to provide such services, and to develop new means of cooperation among organizations concerned with the problems of spinal cord injury.

(c) This subsection requires an organization desiring to enter into such agreement to submit a proposal as prescribed by the Commissioner, who shall give preference to organizations which will provide multidisciplinary systems of rehabilitation services (including acute medical care and inpatient and out-patient care), will demonstrate the benefits of such services and the degree of cost effectiveness of the regional system, will demonstrate and evaluate methods to improve rehabilitation of individuals with spinal cord injuries, and will demonstrate methods of outreach for such persons.

SECTION 309

(a) This subsection authorizes to be appropriated funds for the purpose of providing services for treatment of individuals suffering from end-stage renal disease in the amounts of $15,000,000 for FY 1973; $25,000,000 for FY 1974; and $25,000,000 each for FY 1975 and FY 1976.

(b) This subsection directs the Commissioner to make grants from sums available to State and other agencies for paying all or part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies for the rehabilitation of persons with end-stage renal disease.

(c) This subsection provides that payments may be made in advance or by reimbursement and on such conditions as the Commissioner shall prescribe.

SECTION 310

(a) This subsection authorizes appropriations for the provision of rehabilitation services to older blind individuals in the amounts of $7,500,000 for FY 1973, $20,000,000 for FY 1974, and $30,000,000 each for FY 1975 and FY 1976.

(b) The Commissioner, subject to section 313, may make grants or contracts for projects or demonstrations to improve rehabilitation services to older blind individuals and for applying new types or patterns of services or devices to benefit such individuals.

(c) The subsection defines "older blind individuals" as individuals age 55 and older whose visual impairment makes gainful employment difficult to attain.

SECTION 311

(a) This subsection establishes a National Advisory Council on Rehabilitation of Handicapped Individuals, consisting of 20 members appointed by the Commissioner. Members shall be leaders in rehabilitation, and 10 shall be selected from leading medical, education, or scientific authorities, and 8 of the 20 shall be handicapped persons or those who have received vocational rehabilitation services. This subsection provides other statutory requirements regarding members of the Council.

(b) This subsection requires the Council to provide policy advice and consultation to the Secretary and the Commissioner on the planning, conduct and review of programs authorized under the Act, to review the administration and operation of rehabilitation programs under the Act, including their effectiveness, and to make recommendations with respect thereto including recommendations for statutory changes, and annual reports to the Secretary and the Commissioner for transmittal to Congress. This subsection also requires the Council to advise the Secretary and the Commissioner on the conduct of independent evaluations of programs and to provide such other advisory services as the Secretary and the Commissioners may request.

(c) This subsection provides that technical and staff assistance for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or other Federal agencies. This subsection also authorizes appropriations in the amounts of $100,000 for FY 1973, and $150,000 for each of the three succeeding fiscal years for the Council.

(d) This subsection imposes additional duties on the Council, including a review of duplication among vocational rehabilitation programs and other programs serving handicapped individuals and submitting annual reports of such duplication, and requires that in making such review, the Council seek opinions of persons familiar with the programs, with rehabilitation, and with employment.

(e) This provision permits compensation at usual per diem rates for members of the Council.

SECTION 312

(a) This subsection authorizes the appropriation of $2 million each year for FY 1973, FY 1974, FY 1975 and FY 1976 to establish State Advisory Councils.

(b) This subsection authorizes States to establish State Advisory Councils, appointed by a governor or board.

(c) This subsection sets forth requirements for membership on such Councils, including those who are familiar with vocational rehabilitation, experienced in training for education of handicapped individuals, representatives of labor and management, and, as a majority of members, persons who are themselves handicapped and have received vocational rehabilitation services. This subsection also requires the State Advisory Council to advise the Governor and State agency on policy matters in administration

of the State plan, to advise on long range planning and studies to evaluate programs, and to submit to the Governor and the National Advisory Council on Rehabilitation of Handicapped Individuals an annual report of its recommendations and comments.

(d) This subsection requires the appointing authority to inform the Commissioner of the Council's establishment. The Commissioner shall then certify that such Council is in compliance with membership requirements set forth in subsection (c).

(e) This subsection requires each State Advisory Council to meet within 30 days after certification, setting forth rules of the State Advisory Council including provisions that each Council must meet at least four times a year, and that it have one public meeting each year at which the public may express views concerning vocational rehabilitation.

(f) This subsection authorizes each State Advisory Council to obtain such services as are necessary to carry out its functions under this section.

SECTION 313

(a) This section applies to all projects assisted under title III the general provisions contained in this section, and directs the Commissioner to assure compliance with the section, except with respect to sections 302, 309, 311, and 312.

(b) This subsection requires that a construction project must be used as a public or nonprofit facility for not less than 20 years. Sufficient funds must be available to meet the non-Federal share. Federal funds are to be used only for the purpose provided. Annual reports must be submitted to the Commissioner. Plans and specifications must give due consideration to excellence of architecture and design, and inclusion of works of art, comply with regulations on safety and health, and emphasize compliance with the Architectural Barriers Act of 1968. The application must provide that laborers and mechances employed by contract shall be paid prevailing wage rates, and contain other conditions as the Commissioner deems necessary.

(c) This subsection provides that the Commissioner shall reserve the amount of grants approved, and permits for payment from the original appropriation in the event of an upward revision of cost estimates.

(d) This subsection provides that the Federal Government shall be entitled to reimbursement from a facility for uses made other than as a public or nonprofit facility where such use occurs within 20 years after completion of construction.

(e) This subsection provides that payment of grants or reservation of funds may be made in advance or by reimbursement.

(f) This subsection provides that workshops may, where necessary to effective operation, be awarded grants for construction of residential accommodations.

(g) This subsection prohibits the use of funds provided under this title for construction of so much of a facility as will be used for religious worship or sectarian activity.

(h) This subsection provides that where funds are used to provide direct services under this title, services must be consistent with the State plan under section 101.

(i) This subsection requires the Commissioner to afford State agencies reasonable opportunity to comment on grants or contracts under this title prior to their being made.

(j) This subsection provides that interest paid on obligations in connection with which the issuer has received mortgage insurance or interest grants shall be included in gross income for Federal tax purposes.

TITLE IV—RESEARCH AND TRAINING

SECTION 400

This subsection declares the purpose of this title: to authorize Federal assistance to States to plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and plan and conduct courses of training to increase the number of skilled rehabilitation personnel and to improve the existing skills of such personnel.

SECTION 401

(a)(1) This paragraph authorizes appropriations for section 302 of this title (Research) in amounts of $45,000,000 for FY 1973, $75,000,000 for FY 1974, $100,000,000 for FY 1975, and $150,000,000 for FY 1976 of which 15 per centum for FY 1973, and 25 per centum for subsequent fiscal years of the amounts appropriated in each respective fiscal year shall be available for carrying out activities under section 402(b)(2).

(a)(2) This paragraph authorizes appropriations for section 403 of this title (training) in amounts of $35,000,000 for FY 1973, for $50,000,000 for FY 1974, $75,000,000, for FY 1975 and $100,000,00 for FY 1976.

(b) This subsection provides that funds appropriated under this title shall remain available until expended.

SECTION 402

(a) This subsection authorizes the Commissioner to make grants to and contracts with States and other organizations to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities to develop methods, procedures, and devices to provide vocational and comprehensive rehabilitation services to handicapped individuals. Such projects may include medical, scientific and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, studies and analyses of factors affecting the rehabilitation of handicapped individuals, and special problems of homebound and institutionalized individuals, and related activities which hold promise of increasing knowledge and improving methods in rehabilitating handicapped individuals and individuals with the most severe handicaps.

(b) This subsection establishes priority research categories as follows:

(1) This paragraph authorizes grants to pay part or all of the costs of activities to establish and support Rehabilitation Research and Training Centers operated with institutions of higher education to coordinate and advance programs of research and training in rehabilitation.

(2) This paragraph authorizes grants for the establishment and support of Rehabilitation Engineering Research Centers to apply advanced technology and other knowledge in solving rehabilitation problems through research, including cooperative research with other organizations, designed to produce new knowledge, equipment and devices. The paragraph also provides for cooperation with the Office for the Handicapped in developing information exchange systems and coordination to promote utilization of engineering and other research.

(3) This paragraph authorizes a program for spinal injury research in support of the National Centers for Spinal Cord Injuries (established under section 38). The purpose of such program is to insure dissemination of research findings among all spinal cord injury centers, provide encouragement and support for new approaches, and establish close working relationships with other organizations to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(a) This paragraph authorizes a program for international rehabilitation research, demonstration, and training to develop new knowledge in rehabilitating handicapped individuals. The program would establish cooperation with other nations in sharing and developing information in rehabilitation, and initiate a program to exchange experts and technical assistance with other nations.

(c) This subsection applies the general provisions of section 313, unless the context indicates to the contrary; particularly applicable is the provision that funds used for direct services to handicapped individuals shall not be inconsistent with the State plan approved under section 101.

SECTION 403

(a) This subsection authorizes the Commissioner to pay part of the cost of training and related activities to increase the number and skills of trained rehabilitation personnel.

(b) This subsection provides that funds under this section will be utilized for projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, workshop and facility administration, prosthetics and orthotics, psychology, specialized personnel for deaf and blind persons, recreation for ill and handicapped individuals and other fields contributing to rehabilitation, including for homebound and institutionalized individuals and individuals with limited English speaking ability. The subsection limits education grants to not more than 4 years.

SECTION 404

This section requires the inclusion in the annual report to Congress under section 504 of a report with respect to research and training activities undertaken pursuant to this title, with emphasis on the direct contribution of such activities to the improvement of vocational and comprehensive rehabilitation services.

TITLE V—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

SECTION 500

(a) This subsection requires the Commissioner in administering that portion of the Act under his jurisdiction to cooperate with and render technical assistance to States in the rehabilitation of handicapped individuals, provide short-term training and instruction in technical matters for not more than 4 years in fields which are similar to those listed under section 403, and disseminate information on vocational rehabilitation services and promote such services.

(b) This subsection authorizes the Secretary to make rules and regulations in the administration of titles V, VI, and VII of the Act, and requires such rules and regulations and those prescribed by the Commissioner of RSA under titles I, II, III, and IV, to be published in the Federal Register on an interim basis within 90 days after enactment of the Act.

(c) This subsection authorizes the Secretary to conduct various studies, investigations, and evaluations of programs authorized under the Act and to make reports thereon. Special mention is made of reports concerning abilities and aptitudes of handicapped individuals, development of their potentialities and use in gainful employment, and problems involved in architectural, transportation, and other environmental and attitudinal barriers, including problems of homebound, institutionalized and older blind persons.

(d) This subsection authorizes for purposes of administration appropriation of such sums as are necessary.

(e) This subsection requires the Secretary and the Commissioner to insure the maximum coordination and consultation with the Administrator of Veterans' Affairs concerning programs for rehabilitation of disabled veterans.

(f) This subsection requires the Secretary to insure that administration of the end-stage renal assistance program is coordinated with other Federal programs.

SECTION 501

(a) This subsection requires the Secretary to evaluate all programs authorized under the Act to determine their effectiveness, including their cost, structure, and mechanism

for delivery of services. Evaluations shall be conducted by persons who are not immediately involved in the administration of the program or project evaluated. The provision requires that in the case of section 402 research, demonstration, and related activities, the Secretary is to reassess priorities for such activities, and review existing research, demonstrations, and related activities to determine the basis for their continuation, revision or termination. The Secretary is required, within 12 months after the date of enactment and each April 1st thereafter, to submit a report to the appropriate committees of Congress on the determination and review carried out under this subsection including recommendations for additional legislation.

(b) This subsection requires the Secretary to publish standards for evaluation of program and project effectiveness, and to consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance under the Act. Actions taken shall be described in the annual report to the Congress required by section 504.

(c) This subsection requires the Secretary in carrying out activities under this title, to the extent possible, to obtain the views of persons participating in the program and projects assisted under the Act.

(d) This subsection directs the Secretary to publish the results of research and summaries of evaluations of the programs within 90 days after completion, and submit copies to the appropriate committees of Congress.

(e) This subsection requires the Secretary to take whatever action is necessary to insure that studies, evaluations, proposals, and data produced under this Act shall become the property of the United States.

SECTION 502

This section requires that other agencies of the executive branch provide to the Secretary upon request such information as the Secretary deems necessary for his evaluations under this title.

SECTION 503

This section authorizes appropriations for the purpose of conducting program and project evaluations under this title in amounts the Secretary may require, not to exceed ½ of 1 per centum of the total funds appropriated under title I, II, III, and IV of the Act or $1,000,000 for FY 1973 and $2,000,000 for the three subsequent fiscal years, whichever is greater.

SECTION 504

This section requires the Secretary, within 120 days after the close of each fiscal year, to submit to the President and to Congress a full and complete report on activities carried out under the Act. Such reports shall include statistical data, in the maximum feasible detail, relating to services provided to handicapped individuals during the preceding fiscal year, and shall specifically distinguish between rehabilitation closures attributed to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop, and provision of supplementary services. Such report shall also evaluate the use of funds provided under title I for those with the most severe handicaps, and comprehensive rehabilitation services (non-vocational goal) under title II.

SECTION 505

(a) This subsection requires the Secretary to conduct an original study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals, including a study of wage payments. Such study is to incorporate guidelines in accordance with resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both. Such a resolution has been adopted and is described in the body of the report.

(b) This subsection requires the conduct of site visits and interviews of handicapped trainees or clients in the course of such study.

(c) This subsection prohibits the awarding of contracts under this section to individuals or groups with financial or other direct interest in sheltered workshops.

(d) This subsection requires the Secretary to report to the Congress his findings and recommendations on such study within 24 months after enactment of the Act.

TITLE VI—OFFICE FOR THE HANDICAPPED

SECTION 600

This section establishes an Office for the Handicapped within the Office of the Secretary in the Department of Health, Education, and Welfare, to be headed by a Director. The Director will be a Special Assistant to the Secretary and he is to be provided personnel necessary to carry out the functions of the Office. In filling all positions in the Office, special emphasis is to be given to handicapped individuals.

SECTION 601

This section enumerates the functions of the Office for the Handicapped. With the assistance of other Federal agencies, the Office shall prepare a long-range projection for provision of services to handicapped individuals and for programs of research, evaluation, and training; and analyze program operation to determine progress in meeting goals and priorities set forth in the projection; the effectiveness of all rehabilitation programs, and the need for elimination of unnecessary duplication and overlap. The Office shall also encourage coordinated and cooperative planning for the provision of services for handicapped individuals for programs under the jurisdiction of the Secretary. The Office shall provide staff assistance and other assistance to the National Advisory Council on Rehabilitation of Handicapped Individuals and other such committees, advising the Secretary on programs regarding handicapped individuals. The Office shall develop means of promoting prompt utilization of research to assist in solving problems of education, health, employment, rehabilitation and other areas for handicapped individuals, and provide a central clearinghouse for information and resource availability for handicapped individuals, including evaluation of information and data systems and utilization of evaluations and existing information systems. The Office shall carry out such additional functions as may be assigned to it by the Secretary or the President, but such functions shall not include budgetary, policy, or program control over any program.

SECTION 602

This section authorizes appropriations for the Office in amounts of $1,000,000 for FY 1973, and $2,000,000 for FY 1974, FY 1975, and FY 1976, and an additional $300,000 in each such fiscal year to carry out the information clearinghouse and coordination functions under clause (6) of section 601.

TITLE VII—MISCELLANEOUS

SECTION 700

This section repeals the existing Vocational Rehabilitation Act (and deems references to such Act as to this Act) effective 90 days after the date of enactment of this Act, and provides for transition from that Act to this Act, to prevent disruption of ongoing actiivties for which there is continuing authority.

SECTION 701

(a) This subsection establishes in the Federal Government an Interagency Committee on Handicapped Employees, comprised of the heads of the Civil Service Commission, the Veterans Administration, the Departments of Labor and Health, Education, and Welfare and of such other agencies as the President may designate. The Chairmen of the President's Committee on Employment of the Handicapped and of the President's Committee on Mental Retardation are ex officio members, the Commissioner of the Rehabilitation Services Administration serves as the Executive Director, and the Secretary of HEW as chairman, and the CSC Chairman as vice-chairman, of the Committee. The subsection specifies the purposes of the Committee to insure, through establishment of affirmative action programs, the adequacy of hiring, placement and advancement of handicapped individuals in the Federal government.

(b) This subsection requires each department, agency, and instrumentality in the executive branch of government to submit to the Committee within 180 days after enactment an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such entity.

(c) This subsection requires the Committee to develop and recommend to the Secretary procedures and policies to facilitate the hiring, placement and advancement of handicapped individuals who have received rehabilitation services. The Secretary shall encourage the State agencies to adopt and implement such policies and procedures.

(d) This provision requires the Committee on June 30, 1973, and in each subsequent fiscal year to make a complete report to the appropriate Committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, and its recommendations as to legislation or other action to insure the adequacy of such practices.

(e) This subsection provides that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations.

(f) This subsection requires the cooperation of the Departments of Labor and HEW with the President's Committee on Employment of the Handicapped and authorizes appropriations for such Committee of $1,000,000 for FY 1973 and $1,250,000 for FY 1974.

SECTION 702

This provision establishes in HEW a National Commission on Transportation and Housing for Handicapped Individuals whose function is to determine, in consultation with the Architectural and Transportation Barriers Compliance Board (established under section 703), the extent to which transportation impedes mobility of handicapped individuals, consider housing needs of such individuals, determine what action is being taken to deal with such problems, and prepare plans for further necessary action. The Commission is to submit separate final reports to Congress and the President by January 1, 1975 on transportation and on housing. An interim report must be submitted within 18 months after enactment of the Act. The Commission is to provide information regularly to the Architectural and Transportation Barriers Compliance Board, and the Board is required to reciprocate.

SECTION 703

(a) This subsection establishes an Architectural and Transportation Barriers Compliance Board composed of the heads (or other designees holding at least Executive level IV appointments) of the Department of Health, Education and Welfare, the Department of Transportation, the Department of Housing and Urban Development, the General Services Administration, the Department of Interior, the United States Postal Service, the Veterans' Administration, and the Department of Labor.

(b) This subsection specifies that the function of the Board is to insure compliance with standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968, as amended, investigate and examine alternative approaches to architectural, transportation and attitudinal barriers confronting handicapped individuals, especially in Federally controlled or regulated areas, determine what measures are being taken by Federal, State and local governments to eliminate such barriers, make reports to the President and Congress detailing its investigations, and provide such recommendations as it deems necessary to eliminate such barriers.

(c) This provision requires the Board to conduct investigations, hold public hearings, and issue necessary orders to insure compliance with the cited acts. The provisions requires the application of the Administrative Procedure Act in any action taken by the Board, including provision for judicial review.

(d) This subsection authorizes the Board to appoint as many hearing examiners as are necessary, and specifies that provisions of law with respect to hearing examiners generally shall be applicable.

(e) This subsection requires the agencies involved in membership on the Board to make available to the Board such administrative or other assistance as is necessary to carry out the Board's functions, and permits the Board to appoint such other advisors and experts as are necessary.

(f) This provision requires the Board to submit a report to the Congress on its activities during the preceding fiscal year, including an assessment of the extent of compliance with the Architectural Barriers Act, as amended, and a description and analysis of investigations, as well as reports and recommendations under subsection (b) (4) and (5), made by the Board.

(g) This subsection authorizes the appropriation of $1,000,000 for FY 1973, $1,250,000 for FY 1974, $1,500,000 for FY 1975 and 1976.

SECTION 704

(a) This subsection requires that any contract entered into by any Federal department or agency for personal property or services shall contain a provision requiring contractors to take affirmative action to employ qualified handicapped individuals. The President shall implement the provisions of this section through regulations promulgated by him within 90 days after enactment of this Act.

(b) This subsection permits any handicapped individual affected by a refusal or failure to comply with the provisions of this section to file a complaint with the Department of Labor, which shall investigate such complaints and take such actions as are necessary.

SECTION 705

This section prohibits discrimination, exclusion or denial of benefits to otherwise qualified handicapped individuals by any program or activity receiving Federal financial assistance.

SECTION 706

This subsection corrects certain citations to this Act (to sections 110 and 120) contained in the Supplemental Appropriations Act FY 1973 (P.L. 92-607).

BACKGROUND

Mr. CRANSTON. Mr. President, I think that we must now place this legislation in its proper perspective. The extension of the vocational rehabilitation legislation has been under intensive study in the Congress for 1 full year in both the House and the Senate. S. 7 is the product of enormous labors on both sides of the aisle in both Houses, as was the bill last Congress, H.R. 8395.

SCHEDULING ACTION IN THE 93D CONGRESS

Before discussing the background last Congress and analyzing the President's veto memorandum, I want to stress that we have gone out of our way to accommodate the requests of the administration with respect to our schedule in moving this bill to the floor today. This has all been done within our committee by a bipartisan consensus.

We first invited the administration to testify on January 10 at our hearings that day. HEW Secretary-designate Weinberger requested we postpone further subcommittee action on the bill until March rather than to proceed, as we had scheduled, to hold an executive session following the hearing. After considerable discussions back and forth, we agreed to hold up further subcommittee consideration until February 6 so the administration could testify after the submission of the President's fiscal year 1974 budget to the Congress.

I should point out that even on that date, the administration was not prepared to give us a legislative alternative to S. 7. It finally submitted to the President of the Senate on February 16 a draft bill to extend the Vocational Rehabilitation Act, which expired last June 30. And what it submitted had no substantive changes from its draft bill submitted a year before in the 92d Congress.

Finally, the administration did not transmit its official report on S. 7 until February 26—a week after the bill had been ordered reported from committee.

Mr. President, I note that the material transmitted to us on February 26 included the wrong enclosure of draft legislation, which, therefore, has been printed erroneously in the committee report. To set the record straight, Mr. President, I ask unanimous consent that the text of the administration report plus the correct enclosure be set forth in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, throughout this period of delay to accommodate the administration, the ranking minority members of the subcommittee and the full committee (Mr. STAFFORD and Mr. JAVITS) have been enormously cooperative with the majority leadership and firm in the determination—which we all shared—to move the bill to the Senate floor expeditiously with continued bipartisan and overwhelming support.

We are all enormously indebted to them for their skill, conviction, and leadership in this mutual endeavor.

ACTION IN THE 92D CONGRESS

Early in 1972, the Congress began reviewing the Vocational Rehabilitation Act for extension. Hearings were held in the House Select Subcommittee on Education on January 31, and February 1, 2, and 3 on H.R. 8395, H.R. 9847, H.R. 12742, H.R. 7949, H.R. 7526, and H.R. 12644. During these hearings, and the subsequent Senate hearings later in the year, it became clear that major changes were needed in the act in order to insure that the vocational rehabilitation program would better meet its goal of providing more comprehensive rehabilitation services to handicapped individuals. Most prominent in these hearings was the testimony of witnesses that the vocational rehabilitation program was not reaching that population who needed services the most, those individuals with severe handicaps.

These witnesses pointed out that the program in the States often served only those individuals who were easiest to serve; who could be helped by one referral. The result was exclusion from the service system of many of those individuals who were difficult to serve, and inappropriate and incomplete services for those severely handicapped individuals who were accepted by the program. Witnesses also described the lack of follow-up on individuals after they had been placed in employment, with the effect that the individual failed to receive additional services while on the job, and thus lost the job. Testimony was also presented by medical personnel citing the lack of support for organized and coordinated research and training efforts on the part of the Rehabilitation Services Administration—RSA—often meaning that breakthroughs in the applied areas of rehabilitation engineering and new techniques and modes of rehabilitation were not being translated to professionals in the field.

The House Committee on Education and Labor responded to these problems by reporting H.R. 8395 with amendments on March 16, 1972; and the bill was passed 327 to 0 by the House on March 22, 1972.

The Senate Subcommittee on the Handicapped of the Committee on Labor and Public Welfare held hearings—generally morning and afternoon—on May 15, 18, and 26, 1972, as well as on June 2, and 6, 1972. I was privileged to chair these hearings. In the courses of these 5 days of testimony, more than 40 witnesses were heard. In addition, numerous written statements were taken for the record. The combination of the two produced a most extensive hearing record.

The Senate committee unanimously reported S. 3987 on September 20, 1972, and the Senate on September 26, 1972, passed H.R. 8395 by a 72 to 0 rollcall vote, with a complete substitute text incorporating S. 3987 as reported from the committee and modified somewhat by noncontroversial strengthening amendments and a restoration of the allotment formula for the basic program in the Vocational Rehabilitation Act and also now contained in S. 7 as introduced and reported. Conferees were appointed and filed Report No. 92-1581 on the "Rehabilitation Act of 1972" on October 11, 1972. The Report was agreed to unanimously by the Senate on October 13, 1972, and by the House on October 14, 1972.

PRESIDENTIAL VETO

On October 27, 1972, President Nixon announced his pocket veto of H.R. 8395, issuing the following memorandum of disapproval:

REHABILITATION ACT OF 1972 (H.R. 8395)

This measure would seriously jeopardize the goals of the vocational rehabilitation program and is another example of congressional fiscal irresponsibility. Its provisions would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character. In addition, it would proliferate a host of narrow categorical programs which duplicate and overlap existing authorities and programs. Such provisions serve only to dilute the resources of the vocational rehabilitation program and impair its continued valuable achievements in restoring deserving American citizens to meaningful employment.

H.R. 8395 also would create organizational rigidities in the vocational rehabilitation program which would undermine the ability of the Secretary of HEW to manage the program effectively. The bill also would establish numerous committees and independent commissions which are unnecessary, would waste the taxpayers' dollars, and would complicate and confuse the direction of this program. Finally, the bill would authorize funding far in excess of the budget request and far beyond what can be made available and used effectively.

VETO REBUTTAL: DISCUSSION

The committee carefully considered the memorandum of disapproval on H.R. 8395. It has reviewed 1,732 pages of testimony from the more than 40 groups who testified in hearings in the 92d Congress. It asked each of the witnesses who appeared in previous hearings in the 92d Congress for his views concerning the reasoning in the President's memorandum.

In statements that were submitted to the committee in a January 10, 1973, hearing, from more than 30 of these groups, the response has been of one mind on three points: First, support and endorsement of the bill as passed in the 92d Congress; second, the need for early action in the 93d Congress in view of the expiration on June 30, 1972 of appropriations authorization for the program; and third, rejection of the grounds for the veto as stated in the memorandum of disapproval. The administration reiterated its opposition to the bill at a February 6 hearing, and transmitted a draft bill for introduction on February 16.

In view of this response and the bipartisan support for the bill as passed in the 92d Congress, the subcommittee and the full committee, both acting on February 19, 1973, unanimously approved S. 7 with certain amendments. The bill as reported except for a total reduction of $351.7 million in the level of appropriations authorization for fiscal years 1973, 1974, and 1975 and the addition of authorizations for fiscal year 1976 for all programs other than the basic title I, part B, State allotments programs, is virtually identical to the conference report on H.R. 8395 as passed by the Congress.

Amendments were offered in subcommittee on behalf of the administration to delete programs and authorizations from the bill. They were unanimously rejected.

The committee's reasons for disagreeing with the objections set forth in the President's Memorandum of Disapproval, are as follows:

First. The bill would seriously jeopardize the goals of the vocational rehabilitation program and is another example of fiscal irresponsibility.

Mr. President, the goal of the vocational rehabilitation program has been, since its inception in 1920, to provide vocational services to handicapped individuals in order that they might seek and maintain gainful employment. Toward this end, medical, surgical, and psychological services and counseling, training, and placement have been provided. As passed by the 92d Congress, this bill continues to provide such services, and insures that the wide range of services are available to all individuals who can benefit from them. By providing increased emphasis on research into rehabilitation, S. 7 attempts to insure that the best knowledge and new breakthroughs in technology and scientific research can be brought to bear on the problems of handicapped individuals so that their disabilities will no longer block their potential for a productive and self-supporting life.

S. 7 also expands the services which can be provided under vocational rehabilitation programs so that these new innovations can be used at the field level and that handicapped individuals can share more fully in the benefits of our society. While this legislation alters the definition of handicapped individual, this has been done so that many more individuals can benefit from the program, and can enjoy the benefits of vocational training and self sustaining lives. This change in definition may be the most important provision of the bill, for it insures that an individual's capacity is not judged prematurely, and that all individuals have the opportunity to benefit from the services the program provides.

S. 7 places a priority for services on those with the most severe handicaps to ensure that those individuals who are most in need of services receive these services. The committee realizes that it is easier to serve those individuals with mild or moderate disabilities. But with the range of knowledge and technology which is presently available to this society, it strongly believes that those individuals with severe handicaps have an equal right to services and to live productive lives. Testimony from witnesses who have worked with severely handicapped individuals all of their lives indicate that these individuals can be extremely productive if given the opportunity. The history of this program has shown that for every $1 spent on rehabilitation programs, the Federal Treasury gets back from $3 to $5 by decreasing the welfare rolls and adding to tax revenue through income earned by rehabilitated clients. S. 7 will provide this opportunity.

Furthermore, the authorizations originally included in S. 7 are not large expansions of authority for the Vocational Rehabilitation program. In most areas, what were previously separate programs and represent modest increases have been combined into one authorization; in other areas, relatively modest increases have been provided.

Second. The bill's provisions would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character.

Mr. President, the primary focus of the existing program is vocational rehabilitation. S. 7 retains and reinforces this focus. S. 7 does create a new program for the provision of comprehensive rehabilitation services designed to promote independent living, and provides project grant authority for rehabilitation services for older blind individuals. In the strict sense, these programs might be construed as not having vocational goals. However, both these programs have separate authorizations, and were included in the bill to meet specific unmet needs. As such, they will not affect the basic program or divert it from its vocational objectives.

But most important, title II of S. 7, comprehensive rehabilitation services, was designed to assist individuals who may not presently have a vocational goal. The inclusion of this title in S. 7 marks an explicit resolve on the part of the Congress to build a flexible program which can provide a continuum of services for handicapped individuals. Recognizing that individual conditions are not static and that training can be progressive, this new program is promised on the realization that an individual who first approaches a rehabilitation program may not appear to have a vocational goal. Yet, following training and assistance, this individual may be brought to a point where he may be readily accepted in the basic vocational rehabilitation program. Rather than condemn this individual to no services, and dependence on his family and society, this program has been included in order to build toward the flexibility that is needed if this service program is to be truly responsive to human needs. Further, individuals served may achieve a more independent life, which will in turn decrease their dependence on other family members, thus freeing those individuals to seek work and not only raise the standard of living of the entire family but also produce additional tax revenues.

The President's memorandum also cites the diversion of the program to programs which are essentially "medical" in character. Presumably, this refers to provisions for services to individuals with end-stage renal disease and spinal cord injuries. This "medical" characterization is much too simple to describe the import of these two programs.

Once again, both the programs for services for individuals with end-stage renal disease and the centers for spinal cord injuries authorized in the bill are separate from the basic program, are project grant authorities, and have separate authorizations. To construe these provisions as medical service programs misses their direction and the underlying congressional intent. In the case of the end-stage renal program, the vocational rehabilitation program has been supporting programs of this type since 1968 and is currently serving approximately 2,800 individuals under the present Vocational Rehabilitation Act as part of the process of preparing an individual for employment.

Furthermore, medical rehabilitation is not all that is needed for such renal patients. Expert testimony from commit-

tee hearings indicate that many renal patients need retraining and vocational rehabilitation in a variety of more traditional ways as well. In the past, expansion grant authority under the Vocational Rehabilitation Act has been used to support renal dialysis, for this was the only way a renal patient could get the comprehensive services and retraining he needed without becoming totally dependent—because other authorities required him to be indigent before he could get assistance. Finally, despite new authority under the recently passed social security legislation—H.R. 1—that new authority will not provide support for the first 90 days of treatment and it will not cover those who are not covered by social security.

In the case of centers for spinal cord injury, medical therapy for this injury is only a small part of the total program of services for the patient. Testimony from rehabilitation medicine experts, such as Dr. Howard Rusk, Dr. Edward Lowman, Dr. John Young, and Dr. Henry Betts, indicate that emotional, psychological, and vocational services for the patient must start from the time of injury if the patient is to recover as much of his ability as possible. In this case, medical services and other therapy must go hand in hand even in acute phases if the patient is to survive this enormous trauma. To separate these processes is a counterproductive categorization of services. Further, testimony before the committee indicated that present acute care facilities seldom provide this comprehensive service for this type of injury, and that this lack of knowledge and awareness of treatment methods has resulted in permanent damage to the patient which was not necessary. In recognition of the importance of a multidiscipline service team in early stages of spinal cord injury, this program has been included in S. 7.

Third. The bill would proliferate a host of narrow categorical programs which duplicate and overlap existing authorities and programs.

Mr. President, it is true that S. 7 does contain categorical programs that include: rehabilitation services to older blind persons; rehabilitation centers for deaf and the deaf-blind individuals, and centers for spinal cord injuries.

But not all categorical programs are bad. These programs have been singled out for special treatment because of the dearth of adequate services in these areas. Each program is a project grant authority, and carries with it a direction to demonstrate and examine the best way to provide exemplary programs of services to these unique populations. In each case, the affected populations are presently being inadequately served. In each case, they continue to be inadequately served because of problems peculiar to their rehabilitation, and lack of broad understanding among rehabilitation counselors as to their particular needs for treatment and training. It is the intent of the Congress that attention be focused on these unique problems so that progress can be made in innovative methods of rehabilitation for these individuals.

The automatic rejection of categorical programs is as unresponsive as the opposite approach: special needs are generally ignored by generic service programs, and when knowledge concerning certain special needs is not possessed within those programs it is important that priority and emphasis be given elsewhere, for a time at least, in order to demonstrate the appropriate skills and approaches for these disabilities.

Fourth. Such provisions serve only to dilute the resources of the vocational rehabilitation program and impair its continued valuable achievements in restoring deserving American citizens to meaningful employment.

Mr. President, I have already pointed out, the categorical programs have individual appropriations authorizations. They serve as a focus for special projects and demonstrations and a vehicle for translating new knowledge and methods to the field. There can be no question that the vocational rehabilitation program has made great achievements in its 53-year history. But these achievements have always been the result of its flexibility and its responsiveness to problems of individuals, and changes made in the legislation by the Congress. The committee would not wish to impair these achievements. To suggest that those persons without immediate, and I stress immediate, vocational goals are not deserving of service flies in the face of every value that this Nation stands for. It imposes an inflexibility on the program and on the changeability of the human condition which violates the individual's right to equal opportunity and equal protection of the law. And it is an abrupt violation of the administration's stated objective for reduction of dependency.

Fifth. The bill also would create organizational rigidities in the vocational rehabilitation program which would undermine the ability of the Secretary of HEW to manage the program effectively.

Mr. President, the committee assumes that this objection refers to the statutory authority for the RSA and the creation within that Administration of a Division of Research, Training, and Evaluation. The committee believes that the clear lines of authority for the vocational rehabilitation program will encourage more effective management of this program for the purposes for which it was intended by the Congress, and will insure that the program will not be diverted from its primary goal of provision of rehabilitation services to handicapped individuals, and the concomitant research and development which is needed to provide a dynamic program.

The Congress has found that, in recent years, emphasis on other social rehabilitation programs within the Department has resulted in the deemphasis of vocational rehabilitation for handicapped individuals. From the strong force of 400 personnel in past years, the Rehabilitation Services Administration has in recent years become an appendage to the Social and Rehabilitation Services Administration—and has been cut back to a work force of 160. Its research and development function has been diffused and directed toward programs oriented to the reduction of public assistance. The committee does not disagree with this goal of reducing dependency on public assistance. However, the vocational rehabilitation program was created for the rehabilitation of handicapped individuals; until that task is completed, it should not take on a wider function.

Sixth. The bill also would establish numerous committees and independent commissions which are unnecessary, would waste the taxpayer's dollars, and would complicate and confuse the direction of this program.

Mr. President, S. 7 would create a Federal Interagency Committee on the Employment of the Handicapped, an Architectural and Transportation Barriers Compliance Board, a National Commission on Transportation and Housing, and an Office for the Handicapped. These commissions as such would have no direct connection to the vocational rehabilitation program. They were created to span all programs which affect the handicapped, to deal with serious problems that presently exist, and to escape the narrowing perspective that comes with control by a single program.

In examining the vocational rehabilitation program during hearings, testimony of many witnesses surfaced criticisms which could not be handled simply by amending the Vocational Rehabilitation Act itself. Such problems as unfounded discrimination in employment and in housing, difficulties of access to places of work and treatment centers, and duplication and fragmentation of services across program lines were voiced repeatedly to the committee. Despite efforts on the part of the Civil Service Commission and personnel of the vocational rehabilitation programs, discrimination in placement, hiring and advancement continue to limit the vocational rehabilitation program's ability to effect successful rehabilitations.

Despite an explicit law enacted in 1968 regarding elimination of architectural barriers—Public Law 90–480—accessibility remains a problem because of lack of enforcement of this statute.

The Subcommittee on the Handicapped, when it was created in the 92d Congress, was charged with the examination of all problems which affect the handicapped. The provisions in question were included as an important beginning to carrying out that charge.

But beyond the need for compliance and coordinating mechanisms, the committee questioned the implication in the President's memorandum that such mechanisms would waste the taxpayer's dollar. The expenditure of money on vocational rehabilitation programs is not well spent if we do not at the same time take meaningful steps to eliminate architectural barriers and provide substantial accomplishments in employment for handicapped individuals. The failure to cooperate and coordinate across program lines for services to handicapped individuals results in fractionated programs with wasteful overlap and duplication of services and expenditures. For those millions of handicapped individuals who pay taxes and have the right to expect that their tax

money will go toward making their environment more accessible to them and their lives and employment easier, the creation of a compliance mechanism to eliminate architectural and transportation barriers and an affirmative action program to ensure that they have the right to employment which complements their abilities represent overdue avenues of restitution for previous societal neglect.

For those individuals who have handicapped children, the expenditure of dollars for programs which meet their needs and the needs of their children is a simple return on the equity from their taxes which has long since been warranted. For those individuals and their families who are well trained or have the hopes of becoming well trained so that their dependence on tax revenues may be lessened, such proposals offer the possibility for action to make more effective utilization of their talents.

The committee does not believe such provisions are a waste of tax money.

Seventh. Finally, the bill would authorize funding far in excess of the budget request, and far beyond what can be made available and used effectively.

Mr. President, it is correct that the authorizations contained in the Rehabilitation Act are greater than the budget request.

However, the committee has attempted to meet some of the concerns expressed in the President's memorandum and has reassessed the appropriations authorizations that were contained in H.R. 8395 and S. 7 as introduced this Congress. As a result, S. 7 was amended in Committee by cutting $352 million from those levels. For fiscal 1973, for example, the reported bill authorizes the appropriation of just slightly more than was authorized for fiscal year 1972—$1,059 million in S. 7 as reported as compared to $1.010 million in the Vocational Rehabilitation Act. Currently, only about 1 million of the estimated 7 to 12 million individuals who could be rehabilitated receive any services from the vocational rehabilitation program and only 3 in 10 of those served are considered "rehabilitated." As already pointed out, we believe that expansion of this program does not represent a net increase in governmental expenditures. For every individual rehabilitated successfully in this program, there is a concomitant decrease in the number who must be dependent on public revenues for support and an increase in those who return tax revenues to the Treasury. In fact, the committee believes and I personally feel strongly this may be the most cost effective program ever created by the Federal Government.

CONCLUSION

Mr. President, I think we have totally rebutted the specious arguments in the President's veto memorandum. The Subcommittee on the Handicapped thought so and voted unanimously to report S. 7 as amended, in the process rejecting unanimously the administration's gutting amendments. The Committee on Labor and Public Welfare thought so and voted 16 to 0 to report S. 7, as amended, to the Senate.

I feel confident that the full Senate will agree and will give this fine piece of legislation the overwhelming vote of confidence it deserves and which the handicapped individuals in this Nation fervently hope will be forthcoming.

The House Committee on Education and Labor yesterday voted to report the House counterpart bill, and it is expected the bill will be taken up by the House early next week. I feel we can speedily resolve the relatively minor differences between the two versions of the bill and send the bill to the President for his reconsideration by the middle of next month.

If he should decide to veto it again, this time the legislative branch will have a chance to work its will, and I am confident the Congress will vote to override any such unwise veto.

Mr. President, we have reduced the appropriation.

EXHIBIT 1

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Feb. 26, 1973.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of January 6, 1973, for a report on S. 7, a bill "To amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes."

The bill would replace the current Vocational Rehabilitation Act with a new Act, "The Rehabilitation Act of 1972." The bill is identical to H.R. 8395 of the 92d Congress, which the President vetoed. For reasons stated in the President's Memorandum of Disapproval of October 27, 1972, discussed below and elaborated upon before the Subcommittee on the Handicapped of your Committee by Assistant Secretary Stephen Kurzman on February 6, 1973, we strongly recommend against enactment of this proposal.

The President rejected H.R. 8395 because it would have seriously jeopardized the goals of the vocational rehabilitation program. The bill also contained provisions which would divert the program from its basic vocational objectives into activities that have no vocational element or are essentially medical in character. In addition, the bill would have created several new categorical programs which were duplicative of existing authorities and would have authorized funding for the Act far in excess of the budget request.

H.R. 8395 also would have imposed organizational rigidities in the vocational rehabilitation program which would have undermined the ability of the Secretary of HEW to manage the program effectively. Responsibility for policy and program management would have been vested in the Commissioner of the Rehabilitation Services Administration, rather than the HEW Secretary. It would have established numerous committees and independent commissions which are unnecessary, would waste the taxpayers' dollars, and would complicate the direction and administration of this program.

The Administration strongly supports the Vocational Rehabilitation program and urges that its proposal for extending the program, which was transmitted to the Congress on February 16, 1973, be enacted instead of S. 7. A copy of the Administration's proposal, with attachments, is enclosed for your convenience.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program, and that enactment of S. 7 would not be in accord with the President's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
February 16, 1973.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a draft bill "To provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes". I am also enclosing for your convenience a brief summary of the major provisions of the bill.

The principal amendments are designed to extend and improve the program of general support grants to the States. The bill would extend for three years authorizations for appropriations under the Act, would eliminate the specific dollar amounts authorized for both formula grants and project grants, and would combine into one authorization for appropriations the several existing authorizations for various provisions of the Act. These changes are designed to provide flexibility in the use of Federal resources and to simplify the structure of the Act. The bill would also authorize grants to assist in the development of projects for individuals with spinal cord injuries and for low-achieving deaf individuals.

Equity between States and the outlying areas in qualifying for Federal resources would be achieved under the amendments: minimum allotment provisions would be extended to the outlying areas and American Samoa and the Trust Territory of the Pacific Islands would be included in the general support program. A reallotment provision, similar to that now in section 3 of the Act, would also be added to section 2 in order to achieve better utilization of available Federal resources by the States.

Amendments to the State plan requirements would be made in order to emphasize the utilization at the State and local levels of advice from citizens and professional groups, as well as from the disabled people who are the users of the services provided. In order to improve local delivery of vocational rehabilitation services, the bill would also provide for more flexibility in joint funding and joint administration at the community level where services are provided to disabled people.

The bill would also increase the amount which the Secretary could set aside for evaluation of programs carried out under the Act in order to enable States to better evaluate their programs of services for disabled people.

Finally, the bill would provide that where an individual is able to participate in the cost of his rehabilitation under the State plan, his participation will be in accordance with regulations prescribed by the Secretary in light of his ability to participate. This change would permit recognition of the principle of client participation to the extent appropriate in the cost of services provided.

The enclosed draft bill is very similar to H.R. 13408 of the 92d Congress, which embodied the Administration's proposals for extending and amending the Vocational Rehabilitation Act. Most of the proposals contained therein were incorporated, in one form or another, in H.R. 8395 of the 92d Congress. However, H.R. 8395, which was passed by the Congress, contained numerous other provisions which the Administration opposed, and was therefore vetoed by the President. The reasons for the veto of H.R. 8395 were stated in the President's Memorandum of Disap-

proval of October 27, 1972 and elaborated upon before the Select Subcommittee on Education of the Committee on Education and Labor by Assistant Secretary for Legislation Stephen Kurzman on February 7, 1973.

We are advised by the Office of Management and Budget that enactment of this proposed legislation would be consistent with the Administration's objectives.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

SUMMARY OF THE "VOCATIONAL REHABILITATION AMENDMENTS OF 1973"

The first section of the bill provides the short title—the "Vocational Rehabilitation Amendments of 1973".

Section 2 would amend section 1(b) of the Vocational Rehabilitation Act to provide one authorization for appropriations for carrying out all provisions of the Act.

Section 3 would amend section 4 of the Vocational Rehabilitation Act (grants for special projects) by adding a provision to authorize grants for planning and initiating programs to provide vocational rehabilitation services to individuals with spinal cord injuries or to low-achieving deaf individuals.

Section 4 would amend section 4 of the Vocational Rehabilitation Act (grants for special projects) by adding provisions to cover grants for services to migratory agricultural workers. This program was previously authorized by section 17 of the Act, which is repealed.

Section 5 would insert in section 2 of the Vocational Rehabilitation Act a reallotment provision similar to that now in section 3.

Section 6(a) would strike out the provision of section 2(a) of the Act which requires that the allotment for a State be no less than it was for the fiscal year ending June 30, 1965. The allotment for any State is currently far in excess of that which it received for 1965.

Section 6 (b) would amend section 2(a) of the Vocational Rehabilitation Act by changing the minimum allotment for any State from $1 million to ¼ of 1 percent of the amount appropriated for allotment among the States under section 2.

Section 6(c) would amend paragraph (1) of section 15(a) to conform that paragraph to the amendment which provides one authorization provision for appropriations for all vocational rehabilitation programs.

Section 7(a) would amend section 2(a) of the Vocational Rehabilitation Act by extending the application of the minimum allotment provision to the Virgin Islands, Puerto Rico, Guam, the Trust Territory of the Pacific Islands and American Samoa.

Section 7(b) would amend section 11(f) of the Vocational Rehabilitation Act to include American Samoa and the Trust Territory of the Pacific Islands in the State plan program.

Section 7(c) would amend section 11(g)(1)(B) of the Vocational Rehabilitation Act to make the minimum allotment percentage of that section applicable to American Samoa and the Trust Territory of the Pacific Islands.

Section 8 would amend clause (ii) of section 5(a)(1)(A) of the Vocational Rehabilitation Act to allow the Secretary to authorize the sole State agency under the State plan to share funding and administrative responsibility with another public agency (such as an Indian tribe), whether or not an agency of the State.

Section 9 would amend section 5(a) of the Vocational Rehabilitation Act by adding a new paragraph. Paragraph (15) would require that a State plan include satisfactory assurance that the State agency or any sole local agency administering the plan will take into account, in connection with matters of general policy arising in the administration of the plan, the views of, among others, individuals who are recipients of vocational rehabilitation services, individuals who represent citizen groups, individuals who represent professional groups, and individuals who are providers of vocational rehabilitation services.

Section 10 would amend subparagraph (B) of section 13(a)(2) of the Vocational Rehabilitation Act to increase the training allowance provided thereunder from $25 to $30.

Section 11 would amend section 7(e) of the Vocational Rehabilitation Act to increase the amount the Secretary may reserve from the appropriation under section 1 for evaluation from $1 million to $3 million for any fiscal year.

Section 12 would amend section 5(a) of the Vocational Rehabilitation Act by adding a new paragraph. The new paragraph (16) would provide that in any case in which an individual is able to participate in the cost of his rehabilitation under the State plan, his participation will be in accordance with regulations prescribed by the Secretary in light of his ability to participate.

Section 13 would amend section 5 of the Vocational Rehabilitation Act to require State plans to provide that where an individual is participating in a program of work experience under the State plan, his work experience would not exceed one year.

Section 14 would amend section 15 of the Vocational Rehabilitation Act to allow the State blind commission or other agency providing assistance or services to the adult blind to act as the State evaluation and work adjustment agency for purposes of that section if it is the sole State agency designated under section 5(a) of the Act.

Section 15 would strike out section 3 of the Vocational Rehabilitation Act. The grants for innovation of vocational rehabilitation services provided thereunder are to be included in the program under section 2.

Section 16 would add a new section 15 to the Act to provide that where an individual is participating in a program of work experience in a Federal agency (as a part of his rehabilitation), he would not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment.

Section 17 would make the amendments made by the bill effective with respect to appropriations for fiscal year 1974.

S. —

A bill to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes

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 "Vocational Rehabilitation Amendments of 1973".

CONSOLIDATION AND EXTENSION OF APPROPRIATIONS AUTHORIZATIONS

SEC. 2. (a) Section 1(b) of the Vocational Rehabilitation Act is amended to read as follows—

"(b) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next two fiscal years, such sums as may be necessary for carrying out this Act. Sums so appropriated for carrying out section 4, 12, or 13 shall remain available until expended."

(b) Section 7 of such Act is amended by striking out subsection (d) thereof and redesignating subsection (e) as subsection (d).

(c) Section 10 of such Act is repealed.

(d) Section 12 of such Act is amended by striking out subsection (i) thereof and redesignating subsection (j) as subsection (i).

(e) Section 13 of such Act is amended by striking out subsection (f) thereof.

(f) Subsection (a) of section 15 of such Act is amended by striking out paragraph (2) thereof and redesignating paragraphs (3) and (4) thereof as paragraphs (2) and (3), respectively.

INCLUSION OF PROGRAMS FOR THE LOW-ACHIEVING DEAF AND SPINAL CORD INJURED IN SPECIAL PROJECTS PROVISION

SEC. 3. Subsection (a) of section 4 of the Vocational Rehabilitation Act is amended by striking out "and" at the end of clause (2)(C) and by inserting before the period at the end of clause (2)(D) the following: ", and (E) make grants to public or nonprofit private agencies for paying part of the cost of planning, preparing for, and initiating programs to provide vocational rehabilitation services to individuals with spinal cord injuries or to low-achieving deaf individuals".

INCLUSION OF SERVICES FOR MIGRATORY AGRICULTURAL WORKERS IN SPECIAL PROJECTS PROVISION

SEC. 4. (a) Subsection (a) of section 4 of the Vocational Rehabilitation Act, as amended by section 3 of this Act, is further amended by striking out "and" at the end of clause (2)(D) and by inserting before the period at the end of clause 2(E) the following: ", and (F) make grants to any State agency designated pursuant to a plan approved under section 5, or to any local agency participating in the administration of such a plan, for paying part of the cost of pilot or demonstration projects for the provision of vocational rehabilitation services to handicapped individuals who, as determined in accordance with regulations prescribed by the Secretary of Labor, are migratory agricultural workers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of any such individual and members of his family where necessary to the rehabilitation of that individual. Maintenance payments under clause (2)(F) of the first sentence of this subsection shall be consistent with any maintenance payments made to other handicapped individuals in the State under a State plan approved under this Act. Grants under such clause shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit private agencies having special skills or experience in the provision of services to migratory agricultural workers or their families. In administering the program authorized by clause (2)(F) of the first sentence of this subsection, the Secretary shall, for the purpose of achieving appropriate coordination, periodically consult with other Federal officials who administer programs for migratory agricultural workers under other provisions of law, including title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, and the Farm Labor Contractor Registration Act of 1963".

(b) The Vocational Rehabilitation Act is further amended by striking out section 17 thereof.

REALLOTMENT OF STATE GRANTS

SEC. 5. Section 2 of the Vocational Rehabilitation Act is amended by adding at the end thereof the following new subsection:

"(d) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he may make such amount available for carrying out the purposes of this section to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this Act, be re-

garded as part of such State's allotment (as determined under the preceding provisions of this section) for such year."

MODIFICATION OF ALLOTMENT PROVISIONS

SEC. 6. (a) Subsection (a) of section 2 of the Vocational Rehabilitation Act is amended by striking out "authorized to be appropriated by paragraph (1) of section 1(b) for meeting the cost of vocational rehabilitation services" in the first sentence and inserting in lieu thereof "appropriated for grants to States under this section", by striking out the second sentence of such section, and by striking out "two sentences" wherever it appears in the third sentence of such section and inserting in lieu thereof "sentence".

(b) Subsection (a) of section 2 of such Act is further amended by striking out "$1,000,000" and inserting in lieu thereof "an amount equal to one quarter of one per centum of the amount appropriated for such year for grants to States under this section".

(c) Paragraph (1) of section 15(a) of such Act is amended by striking out "authorized to be appropriated by paragraph (2) of this subsection for meeting the costs described in paragraph (3) of this subsection" in the first sentence and inserting in lieu thereof "appropriated for payments under this section".

PROVISIONS FOR OUTLYING AREAS

Extension of Minimum Allotment to Outlying Areas

SEC. 7. (a) Subsection (a) of section 2 of the Vocational Rehabilitation Act is amended by striking out "(other than the Virgin Islands, Puerto Rico, and Guam)".

Inclusion of American Samoa and Trust Territory of the Pacific Islands in State Programs

(b) Subsection (f) of section 11 of such Act is amended by striking out "and Guam; and, for purposes of sections 4, 7, 12, and 13 only of this Act, American Samoa and the Trust Territory of the Pacific Islands, and for such purposes" and inserting in lieu thereof "Guam, American Samoa, and the Trust Territory of the Pacific Islands; for American Samoa and the Trust Territory of the Pacific Islands".

Application of Minimum Allotment Percentage

(c) Clause (B) of section 11(g)(1) of such Act is amended by inserting "the Trust Territory of the Pacific Islands, American Samoa," following "Guam,".

PROVISION TO ALLOW SOLE STATE AGENCY TO SHARE FUNDING WITH ANOTHER PUBLIC AGENCY

SEC. 8. Clause (ii) of section 5(a)(1)(A) of the Vocational Rehabilitation Act is amended by inserting "or any other public agency" following "another agency of the State".

TAKING INTO ACCOUNT OUTSIDE VIEWS

SEC. 9. Subsection (a) of section 5 of the Vocational Rehabilitation Act is amended by striking out "and" at the end of clause (13), by striking out the period at the end of clause (14)(C) and inserting in lieu thereof "; and", and by adding at the end of such subsection the following new clause—

"(15) provide satisfactory assurance to the Secretary that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of, among others, individuals who are recipients of vocational rehabilitation services, individuals who represent citizen groups, individuals who represent professional groups, and individuals who are providers of vocational rehabilitation services."

INCREASE IN TRAINING ALLOWANCES

SEC. 10. Paragraph (B) of section 13(a)(2) of the Vocational Rehabilitation Act is amended by striking out "$25" and inserting in lieu thereof "$30".

INCREASE IN AMOUNT FOR EVALUATION

SEC. 11. The subsection redesignated as subsection (d) of section 7 of the Vocational Rehabilitation Act by section 2(b) of this Act is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,000,000".

PARTICIPATION IN THE COST OF SERVICES

SEC. 12. Subsection (a) of section 5 of the Vocational Rehabilitation Act, as amended by section 9 of this Act, is further amended by striking out "and" at the end of clause (14)(C), by striking out the period at the end of clause (15) and inserting in lieu thereof "; and", and by adding at the end of such subsection the following new clause—

"(16) provide, in any case in which an individual is able to participate in the cost of his rehabilitation under the State plan, for such participation in accordance with regulations prescribed by the Secretary in the light of such ability."

TIME LIMITATION ON WORK EXPERIENCE

SEC. 13. Subsection (a) of section 5 of the Vocational Rehabilitation Act, as amended by sections 9 and 12 of this Act, is further amended by striking out "and" at the end of clause (15), by striking out the period at the end of clause (16) and inserting in lieu thereof "; and", and by adding at the end of such subsection the following new clause—

"(17) provide that where an individual participates in a program of work experience under the State plan, such participation shall not exceed one year in duration."

ALLOWING STATE AGENCY FOR THE BLIND TO ACT AS STATE EVALUATION AND WORK ADJUSTMENT AGENCY

SEC. 14. Paragraph (1) of section 15(c) of the Vocational Rehabilitation Act is amended by striking out "(other than the State blind commission or other agency providing assistance or services to the adult blind)".

INCLUSION OF INNOVATION IN REGULAR STATE PROGRAM

SEC. 15. (a) The Vocational Rehabilitation Act is amended by striking out section 3 thereof and redesignating sections 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, and 18, and all references thereto, as sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 16, respectively.

(b) The Vocational Rehabilitation Act is further amended by striking out—

(1) "(except for expenditures with respect to which the State is entitled to payments under section 3)" in section 2(b);

(2) "and section 3" in section 2(c);

(3) "or 3" wherever it appears in the section redesignated as section 4(c) by subsection (a) of this section;

(4) "or 3" in the first sentence of the section redesignated as section 5 by subsection (a) of this section; and

(5) "and 3" in the section redesignated as section 14(d) by subsection (a) of this section.

APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 16. The Vocational Rehabilitation Act is amended by inserting after the section redesignated as section 14 by section 15(a) of this Act the following new section:

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 15. An individual who, as a part of his rehabilitation under a State plan approved under section 4 of this Act, participates in a program of work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits."

EFFECTIVE DATE

SEC. 17. The amendments made by this Act shall become effective with respect to appropriations for fiscal years beginning after June 30, 1973.

Mr. RANDOLPH. Mr. President, the able Senator from California (Mr. CRANSTON) has, in an effort to expedite the consideration and passage of this legislation, spoken very effectively.

Mr. President, I take this time only to express appreciation to the Senator from California (Mr. CRANSTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. JAVITS), the Senator from Vermont (Mr. STAFFORD), and to all of those who have worked not only this year but also last year on the Rehabilitation Act of 1972, which I presented last year and which I introduced again this year, because the measure I introduced is the same as the measure vetoed by the President in 1972.

We will recall, Mr. President, that when we voted last year on this measure, the yeas were 70 and the nays were 0. I mention this because in a sense we are covering the same territory this year. That is the reason that we are not frankly debating the issue at length. If there are amendments offered, then certainly there may be discussion on them. The able Senator from Ohio (Mr. TAFT), I believe, is going to direct his attention to certain matters that were of concern in the Labor and Public Welfare Committee and are of concern here in the Senate today.

So S. 7, the Rehabilitation Act of 1972, is before the Senate. I think that in a way it is a challenge to all members of the Senate to demonstrate to the millions of handicapped persons, persons who are elderly, persons who are middle aged, and persons who are very young that the handicapped population of the United States is a concern of this Congress. We so expressed ourselves last year and I hope that we will be able to express ourselves in the same unanimity that we did in 1972.

It is not enough to be concerned and to speak words of concern. It is important to take the necessary action in the Senate and the House of Representatives to give to the President of the United States that type of measure which in a sense goes into new ground. We take care, for the first time, of the severely handicapped, as the Senator from New York knows, giving that the impact and the imprint as we attempted to do last year in the measure that was vetoed.

So these are the services, rehabilitative in nature, which go to the strengthening of America and all its people, not only those who are directly assisted by the many programs.

I once again express appreciation to all members of the Subcommittee on the Handicapped, which I have the responsibility to chair, and to all members of the full committee, and I hope that I will be able later to thank all Members of

the Senate for giving their support to this measure and bringing it to a prompt passage.

Mr. President, I am gratified to express my wholehearted support for S. 7, the Rehabilitation Act of 1972.

At the outset, I want to bring to the attention of the Members of this body the outstanding effort exerted in developing this legislation by the manager of the bill and ranking majority member of the Subcommittee on the Handicapped, Senator CRANSTON. His concern for the needs of handicapped individuals is unsurpassed, and much of the credit for the pending measure must go to him.

On January 4 of this year I introduced this bill, S. 7. As I earlier indicated, its form was identical to that which the Congress adopted unanimously last fall, and which was vetoed by the President of the United States. Since rehabilitation legislation has received so much attention from the Senate Labor and Public Welfare Committee and the House Education and Labor Committee, and from both Houses of Congress, this can hardly be considered new legislation. It is the culmination of months of thorough and diligent effort by many people.

As a result of the President's veto of H.R. 8395 last October, the Subcommittee on the Handicapped held further hearings on the same measure, reintroduced as I indicated as S. 7. In addition to solicitation of statements from interested persons and groups, and hearing the testimony of the administration, the committee reviewed the entire legislative history of the bill, including the more than 1,700 pages of testimony taken during our hearings last year. With the exception of the administration, support for the bill as written was overwhelming and enthusiastic. There is no question that groups representing handicapped individuals, rehabilitation agencies, rehabilitation facilities, and rehabilitation medical specialists believe that the vetoed bill was long overdue and a huge improvement over existing law.

In a spirit of accommodation to the administration, the committee did agree to reduce the level of authorizations for the proposed program. The reported bill contains a first year authorization of $1.056 billion, only slightly higher than the 1972 authorization under the Vocational Rehabilitation Act. In addition, the commitee agreed to reduce authorizations for special projects, research, and training by another $225 million in subsequent years.

The reported bill includes a provision to clarify the reference in the supplemental Appropriations Act, 1973, by means of a technical change in section numbers applicable to the pending Rehabilitation Act. It will assure funding under the Appropriations Act, rather than the continuing resolution, and permit an additional $50 million to be expended for rehabilitation services.

Mr. President, examples of problems that handicapped people encounter, and which graphically highlight the need for this legislation, come across my desk very frequently. I am certain that my colleagues are also acquainted with problems of handicapped individuals in their own States. One such example is that of physical barriers to handicapped persons. Although the Architectural Barriers Act was adopted in 1968, handicapped individuals have observed very few improvements in public buildings, in housing, or in transportation which ease their accessibility to such facilities. Those things that a person without handicaps take for granted—stairs, escalators, narrow doorways—are often insurmountable obstacles to thousands of handicapped individuals. It is for this reason that I included in the Senate bill last year, and retained in S. 7 this year, a provision establishing an Architectural and Transportation Barriers Compliance Board, to ensure the enforcement of the Architectural Barriers Act of 1968, and to obtain recommendations for additional laws or administrative rules which would improve accessibility in all public places for handicapped individuals.

This is just one situation of many which justify the provisions contained in S. 7 as reported. Another urgent need that is fulfilled in this measure is services for individuals suffering from end-stage renal disease. Although State rehabilitation agencies do assist in the provision of dialysis machines and treatment for those with severe kidney disease, some 5,000 people die each year simply because funds are not available to provide the means to treat their illness. This is a shocking inadequacy and one that must be immediately rectified.

In addition to the basic rehabilitation services provided in S. 7, a number of target population programs were included because a number of groups have in the past been poorly served, or not at all. Some of these are the deaf, the spinal cord injured, the deaf-blind, and the older blind. Comprehensive rehabilitation services are authorized for handicapped individuals for whom a vocational goal is not possible or feasible. Funding for this program is separately authorized; it is not large compared to the basic program, but it meets a need that is not being met by any other program.

Mr. President, all these statements have been made before—by myself or by others—in the report on the bill, or on the floor of the Senate in connection with the passage of H.R. 8395. Two points must be borne in mind as we consider this legislation today. First, there are between 7 and 12 million handicapped citizens who are waiting and wanting to be helped by this program. We will not be able to help them all with S. 7, but we will do a much better job of it than we have in the past. If we do help them, we help all of us; not just from the standpoint of exercising compassion and improving the lives of millions of our fellow human beings but also from the standpoint of allowing these same people to become full, taxpaying members of our society instead of permitting them to be doomed to the life of welfare recipients.

This bears on the second point I wish to make, Mr. President. The Federal vocational rehabilitation program is perhaps the most cost beneficial of all our Federal programs. For every dollar spent on rehabilitating a handicapped individual, at least $3 to $5 are returned in taxes, increased earnings, and reduced welfare payments. Some estimates consider the ratio to be, in some cases, as high as 50 to 1. The conclusion is inescapable: the more funds that are invested in this program, the more this country gets back—3, 5, or 50 times more. Opposition to such a program on the basis that it costs too much is very shortsighted indeed.

I support the enactment of S. 7 and urge each of my colleagues to join in that support.

Mr. JAVITS. Mr. President, so far as the minority is concerned, which minority agrees with the bill, the bill will be managed on our side by the Senator from Vermont (Mr. STAFFORD), who is the ranking minority member of the Subcommittee on the Handicapped. However, I would just like to make a brief observation in the same spirit that the Senator from West Virginia did and will then entrust our side of the case to the Senator from Vermont (Mr. STAFFORD).

I, too, would like to join with the Senator from West Virginia in congratulating the Senator from California (Mr. CRANSTON) and the Senator from Vermont (Mr. STAFFORD), who have piloted this bill to its present stage. I also thank the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS) for having the matter brought up and handled so promptly on the floor. I also thank the Senator from West Virginia with respect to the actions of the Subcommittee on the Handicapped which he heads.

Mr. President, I would like to also add a word of appreciation to the Senator from Ohio (Mr. TAFT) who will be offering amendments to facilitate in every way our early consideration of the measure and who will, I understand, handle the amendment with a celerity which will indicate that, while he may feel deeply about the amendment, he agrees with the general concurrence on the general thrust of the bill and its purpose.

Mr. President, since the enactment of the first vocational rehabilitation statute in 1920 through its major expansions in 1943, 1954, and 1960, vocational rehabilitation legislation has enjoyed great bipartisan support here. In fact, a number of the members of the minority both on and off the Committee on Labor and Public Welfare have cosponsored this bill. That is further evidence of the bipartisanship which characterizes this measure.

As the legislative authority of the Vocational Rehabilitation Act has run out and is now proceeding under a so-called continuing resolution, it is our responsibility here to enact with dispatch new legislation in order to sustain the capacity of the State agencies and those in the field for program development and planning as well as delivery of essential services.

The matter of a formula revision in the basic program—a change which elementary justice demands be made—can be taken up separately from this bill and need not becloud the legislation before us at this time. That is why S–7

provides for appropriation authority through fiscal year 1976 for all programs except State services—part B of title I—which is authorized through fiscal year 1975. Thus we will be able to deliberate on the State formula question unencumbered by other issues. This simply follows the pattern approved by the Congress last year in H.R. 8395, the bill subsequently pocket vetoed by the President.

This measure draws upon the experience of the past half century and provides new emphasis on the severely handicapped, the homebound, client services and participation, opportunities for employment of the handicapped and administrative improvements.

I am particularly pleased that the problems of the homebound are now given specific recognition in several parts of the bill. These individuals must not be left out of the mainstream of life simply because no priority has beeen placed upon serving them. For the first time States are required to try to find services, and methods of delivery of those services, from which the homebound may benefit. I was pleased to have authored this provision.

A final word. In these days of budget constraints, I believe it is important to note that vocational rehabilitation is not just another welfare program. It not only produces "human dividends," but it also produces "cash dividends" by virtue of the handicapped becoming productive and because it turns what could be tax consumers into taxpayers. It is a program with a hard nose as well as a soft heart.

For all of those reasons, Mr. President, I favor the bill, as most of the minority have favored it. I hope very much we will not run into the same problem that we ran into with the pocket veto of the President before, but that this bill will become law.

I might say, too, that if we should go on a different kind of financing scheme, special revenue sharing or whatever, the legislative provisions of a bill like this, giving the ground rules by which money shall be spent in this field, are still vital, and I hope the President will have that in mind when he comes to consider putting his signature on this bill.

Also, I think it will be very important that the vote in the Senate be great enough to indicate to the President how strongly we feel about this measure, because I think that, too, could be a very important factor in what happens to it when it gets to the White House.

Again I congratulate both the managers of the bill, the Senator from California (Mr. CRANSTON), and the Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I found it a real privilege to serve on the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare with the Senator from California (Mr. CRANSTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. TAFT), the Senator from West Virginia (Mr. RANDOLPH), and with the Senator from New York (Mr. JAVITS), who is the ranking minority member of the full committee. Like the others, Mr. President, I think we are essentially replowing the ground of last year.

The Rehabilitation Act of 1972 (S. 7) is designed to help handicapped individuals achieve their full potential in our society.

The tentative findings of the most recent study by the General Accounting Office have led us to the conclusion that the present legislation in this field has failed to achieve that goal.

The Vocational Rehabilitation law, which would be amended by S. 7, was a first step in seeking ways to help the handicapped assume meaningful roles in our society. S. 7 is the logical second step. It will provide no final solutions, but I am convinced it will be effective primarily because it will give handicapped citizens the opportunity to help decide their own future.

It is unfortunate that President Nixon felt that he could not sign H.R. 8395, the bill passed overwhelmingly last year by the Congress. The bill now before us, S. 7, is substantially similar to the conference report of H.R. 8395. The committee could find no meritorious reason to make any significant changes in last year's bill after again taking testimony from witnesses in January of this year and from the administration in early February.

Amendments to S. 7 were offered on behalf of the administration at the subcommittee level and as has been stated by the floor manager, Mr. CRANSTON, they were unanimously rejected.

Mr. President, there are an estimated 7 to 12 million handicaped individuals in our Nation who have not realized their full potential in performing at some job. In the last fiscal year, it was estimated that 1 million disabled persons were served by State vocational rehabilitation agencies and approximately 300,000 of those individuals were reported to be rehabilitated. It is clear that we still have a long way to go, just as it is clear that this legislation and the funds authorized by it will not meet all of our national needs. But, this legislation can guarantee that many more individuals with severe handicaps will receive more responsive services than at present.

The Rehabilitation Act of 1972 has been delayed too long and it is now time to pass this bill and get it enacted into law.

In the past, the Vocational Rehabilitation program has tried to provide services to those individuals whose handicaps have been substantial enough to limit their participation in the employment process or the society around them.

When the program was originated in 1920 (Smith Fenn Act), it was designed to help the handicapped individual cope with his environment and to obtain gainful employment. In the 53 years of the program, its basic framework has remained intact although the program has been substantially enlarged over the years.

Tentative findings of the still unpublished GAO study, which has been available to the subcommittee, portray a program which seems to have lost some of initial direction and has gotten snarled in the bureaucratic numbers game. The GAO found that first, the programs once so hearlded were not serving individuals with substantial handicaps, nor second, was the program beginning to serve the increment of increase in the handicapped population. The hearings held last year by the Subcommittee on the Handicapped and again updated by submitted testimony this year bore out this tentative finding to the satisfaction of the subcommittee members. Thus, we have chosen to amend the existing "Vocational Rehabilitation Act" with the "Rehabilitation Act of 1972."

Hopefully, we have brought forth a program that will redirect needed services to some of those individuals whose handicaps are most severe. I think that certain provisions, such as the individualized written program, client assistance, Office of the Handicapped, and new initiatives in mid-range research, will redirect the program toward those handicapped individuals most in need of services.

I shall not dwell on those areas of the bill which have been covered except for one or two which I feel do the most to humanize the rehabilitation "system."

I would again like to review for my colleagues testimony the subcommittee heard on May 26, 1972 from Mr. James Stearns, a senior at Dartmouth College, who came to the subcommittee as a consumer of services under the vocational rehabilitation programs. Mr. Stearns, who suffers from cerebral palsy, had this to say to us:

> Granted, I have had some personal, physical obstacles to overcome during my lifetime and I do have certain physical limitations which I must live with.
>
> However, I do not consider myself to be handicapped either in the traditional sense or the literal sense. I am not handicapped because of the understanding and the attitude that has prevailed in my own home throughout my lifetime.
>
> My parents instilled in me a value system and an outlook on life in which handicap was never a factor that I had to contend with. I am one of the more fortunate people in this world, because, Mr. Chairman, there are individuals in this country who have cerebral palsy who will never achieve anything that I have achieved. In fact, many may never be able to walk by themselves, feed themselves, or even talk and communicate as I am doing here today.

Mr. President, I would like to take time to acquaint my fellow Senators with what I consider some very important aspects of Mr. Stearns' testimony and the dialog that we had afterward.

> Mr. Chairman, if I leave any message with you today it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.
>
> We are in a new age in rehabilitation. We have opportunities opened up that, when I was growing up, never existed. Yet new opportunities always bring new responsibilities. If the disabled of this country assume their responsibilities in shaping the policy that affects them, the rehabilitation program will be one of this Nation's lasting successes.
>
> I hope, therefore, that whether you write it into the law or write strong report language, you specifically recognize the need to involve the handicapped themselves in this program at all levels; that the handicapped themselves be given a strong voice so that

they may become contributors to this program and not merely recipients of it.

Senator STAFFORD. I would like to join in what you have just said and tell you, Mr. Stearns, that we certainly as a committee appreciate the effort you have made to come down here as an individual, not representing any group.

I think on the basis of your presentation here that Dartmouth College would be pleased to claim you as their representative in front of this committee.

I do have one or two questions for you.

Taking into consideration your experience, what would you consider should be a major element in the vocational rehabilitation program that we provide?

Mr. STEARNS. Senator Stafford, perhaps the most important thing is that idea of consumer participation which you have already talked about. Consumer participation is important because the critical factor in the minds of most handicapped people is whether they are able to develop a sense of independence.

If I may illustrate my point with some experiences of my own, if there was one reason why I was able to be at Dartmouth College this year instead of out of school, it was that my family and community pushed me to develop a sense of independence. In every program I had, doctors, therapists, and my family consulted me on everything that was going on, and demanded that I make the final decisions in those programs, although some of those decisions were pretty hard to make.

That prescription did instill in me a sense of independence and has enabled me to make my own judgments and to get on in the outside world.

That is why every rehabilitation program must have a mechanism for consumer participation. If you do not develop that sense of independence, there comes a day when you are so used to having other people make your decisions that you are not able to get out in that outside world and participate and become rehabilitated.

Senator STAFFORD. In your prepared statement, you say. "If I leave any message with you today, it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them."

Could you elaborate for the committee on this statement?

Mr. STEARNS. Certainly, Senator Stafford.

I think it is quite obvious that the best person to tell you about disability is the handicapped persons himself. He is the only person who has lived through it. He is the only person who really knows what is going on in his head.

My study has been directed toward the goal of developing those tools necessary to make the disabled active participants in the political process. I have tried to do three things; one, outline what the Federal Government has done, up to the present time, for the disabled; what rights do they have; what benefits do come their way; do that first of all.

Second, outline what the Federal Government is contemplating doing—so that the disabled will understand what may come in the future, and can come down here and give you some input on proposed legislation.

Third, and probably most important. Senator Stafford, is to analyze simply how policy for the disabled is made and what specific types of input the Members of Congress, of the executive branch and of State agencies would like to have.

I think this is most critical.

Mr. Chairman and Senator Stafford, when I was growing up, I was not aware of many of the benefits that could have come my way. I was even less aware of what I should do to get those benefits. I suggest in this new age of rehabilitation we must have a consumer group of disabled who are knowledgeable, they know what to do, to come down here and effectively influence legislation. I think if we could develop a disabled consumer group, we are going to have better legislation coming.

Senator STAFFORD. One more question.

I am considering strengthening the existing legislation by requiring that under basic rehabilitation programs that priority be given to those who handicaps are most severe.

What would your reaction be to such a proposal?

Mr. STEARNS. Senator Stafford and Mr. Chairman, everything I can say is that this—has got to be what comes. I had a lot of experience in debating in high school. But I wish I could be more eloquent here and try to tell you why.

Let me tell you a short story of my growing up.

When I was 5 or 6, we had 10 cerebral palsy cases in the room. We had a special nursery. When I was 6, I got out of the room. I did not have much of a disability. Once I got into the Laconia Schools, I went on to prep school and Dartmouth.

But one person made it out of that room, Senator Stafford—one out of 10. The others had very severe handicaps, just as good minds, but more severely physically handicapped.

I go back there every once in a while, and see those people on the streets. I say, "Well, what are you doing now? How are you?" They say, "I am not doing anything, just nothing at all."

You know, they still cannot get those services they need.

Mr. Chairman, people like myself, we can make it. I do not think we need the services that much. We can make it. But we want those disabled who are more severely impaired to make it with us; because if they do not make it with us, then our making it just does not have any meaning at all.

I just hope, I just hope we can get that emphasis on this severely disabled.

Senator STAFFORD. I think your appearance here is a great credit to you and will be helpful and an inspiration to this committee.

I thank you very much.

After listening to and later rereading a couple of times the statement and questions and answers, I felt that Mr. Stearns' point about the client participation in his own program and the system was probably the most important one that could be introduced into the rehabilitation system. It is to this end that the Individualized Written Rehabilitation program was placed in the original bill and remains in S. 7. It is apparent from what Mr. Stearns said and from the testimony of other witnesses that the handicapped client was not being consulted or contributing to the rehabilitation plan that was being constructed to help him. The concept of the written program is basic to the individual's rights under the program. It offers both the system and the client an opportunity to work together in developing a program that is designed for the rehabilitation of the client.

The written program should serve as a road map for the rehabilitation process and it should provide for intermediate goals through which the counselor and the client can measure progress. The written program must be formulated with a vocational goal as its objective. While it is realized that every client may not be able to achieve a vocational goal, the opportunity for that achievement must be available to him, at least until such time as the counselor can beyond a reasonable doubt support such a change in goal. The client must also be an equal participant in that decision.

There also could develop a situation where outside influences could modify the plan, such as lack of available funds or insufficient services. These factors might alter timetables but they should not affect the long range goal of the individual. To quote the report on S. 7:

> The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless these are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties.

Besides providing the individual and humane influence on the system, this written program can also serve as a yardstick for the evaluation of the system at all stages of operation. The individualized written rehabilitation program is important to help make this new system work for the handicapped individual be his disability severe or the most severe.

It should also be noted that this bill, for the first time in legislative language, places special emphasis on the severely handicapped and has the State establish a priority order of services to be given to the individual client. I feel very strongly that the system should immediately redirect its priorities, and that in 1976 when the legislation comes up for renewal, it should be convincingly demonstrated that the program is performing the function for which it was established. I am quite aware, as is the committee, that in order to achieve the goal of redirection of the priorities of services that RSA must quickly establish a new system of reporting which does away with numbers and concentrates on the quality of the services provided. I hope I do not hear about sheer numbers rehabilitated at the next set of hearings, all the while knowing that a new GAO study is saying that those being served have questionable handicaps and other individuals are being denied services, as was the case during the 1972 hearings on this bill, and the releases from RSA after the President pocket vetoed the bill in October of last year.

Providing services to the severely handicapped individual is costly and time consuming and presents many new problems for the rehabilitation system. It was brought to the committee's attention that quotas were imposed on counselors by the numbers reporting system and that this quota system is most effective in excluding those individuals whose handicaps are most severe. Thus, it is incumbent upon the Administrator of RSA to develop as soon as possible a new system of reporting which emphasizes quality and not merely quantity.

The system of client assistance worked out in conference last year is again an attempt on the committee's and Congress' part to instill in the system a responsiveness to the human needs of the handicapped individual while he is par-

ticipating in the system. I think that the client assistance system is needed and will serve as a perfect complement to the individualized written rehabilitation program. The rights of the client to participate in the shaping of his own future and to receive speedy service from the system are undeniable.

Mr. President, there are many more aspects of S. 7 that deserve to be dealt with before I close but time is of utmost importance so I will only take a few more minutes to comment on the necessity for redirection of research, the sheltered workshops study and my two amendments on employment of handicapped indviduals within the Government.

First, the committee, after hearing much testimony last year, decided that the primary function of research under this act should be directed to alleviating the problems of the handicapped individuals. The midrange research goal and engineering center are designed to provide needed devices and practical solutions to problems encountered daily by handicapped individuals. It was strongly felt that all research programs and projects should be coordinated within HEW so as to obtain the maximum use of the limited dollars available. Thus, it is RSA's primary function to respond to the needs of the handicapped in the research area. An important addition to the evaluation system is a provision I introduced and which was accepted for continued observation of research to make sure it is directed toward the goals which will benefit the handicapped individual.

The sheltered workshop study of section 505 of S. 7 was written in response to what was felt to be a general lack of objective knowledge about workshops and their functions in the system. The objectivity of the study is its prime merit and the functions supplied by resolutions of the committee supply some of the basic questions that remain unanswered. The misinformation that seems to permeate the subject area of workshops is reenforced by both sides of the argument. I should like to add that the report language specifies this study is to be comprehensive, and the committee still feels that a significant portion of the funds under title V should be used in this study. It is also expected that the study should be an original and not a compilation of past studies.

The study is important if the committee is to act wisely when the program comes up for review.

Last, I would like to comment on the two of last year's amendments offered by me; one which was adopted in committee last year to title VI of S. 7, the Office of the Handicapped; and the second to the President's Committee on the Employment of the Handicapped section offered by me and adopted by the Senate. These amendments remained part of S. 7 when it was reintroduced in January of this year. The rationale for these amendments again simply stated is: a handicapped individual has more insight into the problems of the handicapped than does a nonhandicapped individual.

For many years the Federal Government, through the Congress, has voiced its feeling that, given the opportunity and training, most of America's handicapped individuals are capable of supporting themselves and of contributing fully to society. My amendments simply take the Federal Government at its word and say that a qualified, handicapped person should be employed in the Federal program. This is a small start in what I think is an important direction for the handicapped and for the Government programs which try to deal with the problems of the handicapped, both in rehabilitation and in everyday life.

Mr. President, S. 7, the Rehabilitation Act of 1972 represents a good step in the right direction and I wholeheartedly support it. It is my hope that after this long delay in enactment, the President will sign the bill into law so there will not be any more delays and hardships for our Nation's handicapped.

I yield the floor.

Mr. CRANSTON. Mr. President, I would just like to emphasize the unanimous and bipartisan approach to the bill in the form in which it is now before us. There was unanimous action when reporting it from the subcommittee, and unanimous action in reporting it from the full committee by a vote of 16 to 0 in favor of this bill, and I believe it is in very fine shape at this point.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TAFT. Mr. President, it may seem strange that a sponsor of the bill, and one who has long supported increasing and improving the participation of the Federal Government in the field of vocational rehabilitation, should be the only person on the floor today to express some reservations with regard to it. I would like to make it clear at the outset that the reservations which I express in no way go to denying or taking a position against the Federal Government lending further support, expressing further concern, or engaging to a considerably, if not greatly, enlarged extent its concern with the entire field of vocational rehabilitation. I think there are few programs on the national scene having to do with health, with manpower, or with palin ordinary humanity that make more sense from almost any point of view from which one regards them.

There would be little doubt, I think, in assessing even the net economic impact on the country, that the vocational rehabilitation programs we have been engaged in have been a very, very good investment, and one which I think we are well merited in applying further resources to.

However, simply because those generalities are true does not mean that every measure that is proposed with regard to vocational rehabilitation—just as with any other measure with an attractive title on it—necessarily in all of its aspects is a perfect measure. I think there are a number of provisions in this particular bill that deserve thorough examination and consideration by the Senate as well as by the House of Representatives. While I think there is little likelihood that we will make any changes on the floor here today of any major importance in the form of the bill, I do think that at this early stage in the session, and in the the early stage of this legislation, it is important to point these things out.

The bill before the Senate at this point, S. 7, contains many constructive and well-conceived improvements to the Vocational Rehabilitation Act. Most of these were included in last year's bill, H.R. 8395, through action of Congress, in response to recommendations made by the administration and extension of the act which expired last June 30, and is continued only under the continuing resolution. This bill is needed by the Nation's handicapped. It is strongly supported by the administration as well as by the Senate. But a number of the features in S. 7 are, in my opinion, ill conceived and unworkable and could actually be injurious to improving vocational rehabilitation efforts.

These features, many of which are in last year's bill, have provided the bases which led the President to veto that bill.

S. 7 does, indeed, differ from H.R. 8395, the vetoed bill. In one agency, for example, 3-year authorizations have been reduced from $3.477 billion in last year's bill to $3.105 billion in S. 7. This change merely alters slightly the contour of S. 7. It does not appear to alter the fundamental defects which have caused its unacceptability to the administration.

S. 7 contains many provisions which I think perhaps would better be deleted. As I have indicated, this does not detract from the overall merit of moving in this area, or the overall merit of the legislation.

I expect to offer certain amendments to delete certain provisions which provide authority for categorical authority on overlapping existing authority, as well as to the budget that has been completed. There are a number of programs that are proposed to be expanded on, initiated under the proposed legislation, which might better belong in fields other than the field of vocational rehabilitation.

Mr. COTTON. Mr. President, will the distinguished Senator from Ohio yield?

Mr. TAFT. I yield.

Mr. COTTON. At this time, I wish to commend the distinguished Senator from Ohio for the statement that he has just made. I assume that is his general statement.

Mr. TAFT. Yes, I have just completed it.

Mr. COTTON. I doubt there is any Member of the Senate who has reason to feel more keenly the need for rehabilitation of the handicapped than the Senator from New Hampshire. Ever since I was 13 years of age, I have had a handicapped brother. The Senator from New Hampshire has maintained him in the little town in New Hampshire where we were born. He is spastic. He has certain handicaps occasioned by damage to certain parts of his brain which control the nervous system.

Strangely enough, he could have been taught to lead a rather productive life because, as is evident in many cases where there are general disabilities, there are peculiar developments in other lines. For instance, my recollection is

that he never got very far in school, that while, with the use of both hands, he could write his name, he does have a remarkable natural ability for mechanics and electrical work. He can take a technical magazine containing many intricate charts and he can study them. Sometimes, when someone in the village has an automobile that will not work, they prop him up in a chair beside the car, and he can find the trouble. He can also repair radios. Yet he has been doomed to lead a life of dependency. I am very proud and happy to be able to care for him and do care for him. But he could have had a much fuller life.

So, Mr. President, no one can tell me there is not great virtue in these programs. When we passed the bill unanimously last year, partly because of the almost emotional feeling that the Senator from New Hampshire has, I was one of those who voted for the bill. I had some misgivings because the Senator from Ohio has, with great fairness, I think, and skill and commonsense, put his finger on the weakness of all these magnificent programs.

It seems to me that when we start to deal with programs of this kind, we always go a little too far. This measure carries somewhat less authorization and money than last year's bill. But we are still providing almost $5 billion in authorizations.

As I read the bill and the report, I believe that the same job could be done more economically and, perhaps, at the same time more efficiently if we did not go too far and indulge in so many activities and program them all out. When the time comes for the appropriating committees to deal with it, and they will have to restrict the moneys; and when Congress has specified various projects, particularly with their unanimous and overwhelming vote, the appropriating committees are placed almost in the same position that the President is, when everyone is going after him for the so-called impoundment of funds. The appropriating committees are told, "You have got to appropriate something. You cannot cut any of these activities out. You cannot appropriate for part of them. You must appropriate for all of them."

There are quite a number of activities in this bill. Thus, I feel that the Senator from Ohio—and, incidentally, I note that he was joined within the committee, by the Senator from Colorado, the Senator from Vermont, and the Senator from Maryland, in voting to curtail the expenditures to a certain degree.

I hope that the Senate will give careful consideration to the amendments offered by the Senator from Ohio. I want to vote for the bill—probably I may vote for it anyway on this passage—but I want to vote for a bill to strike at the heart of this problem; but I would like to see some of the underbrush taken out so that it is pointed straight at the target.

As times goes on, if auxiliary programs are necessary, research here and research there can be added.

I therefor commend the distinguished Senator from Ohio. I would hope that the bill could be amended so that some of us could vote for it with a clearer conscience, because if we follow the promise of what was laid down—and I do not want to speak in a partisan way here, but we might as well call a spade a spade—it is quite evident that the policy is to take every one of the bills which the President pocket vetoed—I know it is irritating; a pocket veto is a most obnoxious veto—and throw them back in his face just as they passed before.

Mr. President, I regret that that is the case. It is not usual that we have that kind of partisan infighting right after an election. It usually comes just before an election. When we send back these bills with the fat taken out of them and more streamlined and less expensive, I think Congress will be in a much better position to insist on Presidential support and to override vetoes.

But, no—the pattern is becoming evident. Many of these bills, such as this bill, are fine, worthy bills, are cut a little, perhaps, and are thrown right back in the President's face. That is all right, but it is more important—and I feel this so strongly because of my own experience—to take care of and help the handicapped in this country than to score a political victory or create a political issue.

I commend the Senator from Ohio. I anticipate that I will be able to support his amendments, and I think I shall do so no matter how few join him, even though I probably will vote for final passage.

I thank the Senator for his generosity in yielding so much time.

Mr. TAFT. I thank the Senator for his remarks. They are very appropriate under the circumstances.

I think almost any one of us has had some circumstance among our friends and families in which the whole problem of disability and vocational rehabilitation from that disability has become a necessity, in which we have needed help, applied for and received help in one way or another, according to our various facilities and our various neighborhoods.

Many times we may have found, as I have found, that the facilities were not up to what they ought to be, that the art, perhaps, had not been developed in some instances, with respect to artificial limbs and otherwise, to the point where it should be developed. I have had personal experience with that in connection with one of my closest relatives.

But the question that this bill really presents insofar as the amendments I shall offer are concerned—and the issues that were involved in the veto of the prior measure in the last session—relates to whether or not we are going to keep focused on the target of vocational rehabilitation in this particular effort. It seems to me that with all the pressures we have in the health field today, with rising health costs and tremendous needs and tremendous new treatment programs that have been developed, there is a great temptation, with respect to any bill that comes along, to grab the particular opportunity and move on that opportunity to weld onto some already ongoing program, which has been successful and which is admittedly much needed, many other aspects that are sometimes extraneous.

I speak of that particularly with regard to the amendment I shall offer shortly to strike the comprehensive rehabilitation services, for I think title II of the bill is clearly directed toward establishing a new approach here, an approach toward the totally disabled, rather than staying in the field of doing something about the vocational abilities of individuals who are severely handicapped.

Going beyond that, to the other shortcomings of the bill that we will be aiming at in the amendments of which I will speak briefly, when these amendments are offered, they really relate to setting up new authorities within the Department of Health, Education, and Welfare one way or another to deal with particular facets of this problem.

Whether the proliferation, especially by legislation, of the authority over these areas is desirable or not, I think it certainly is open to a good deal of question. The argument is always made—and it is always tempting to those in a particular agency—that getting a separate name, separate board, separate constituency recognizes in a formal sense that somehow they are going to be able to get a better shake in the budgeting in future years. That sometimes turns out to be true; sometimes it does not. All too often, I am afraid it tends to create confusion and division of authority and sometimes ineffectiveness of particular programs within the overall activities of the Department insofar as health considerations are concerned.

So that I have deep concern whether the proposed changes we are about to enact here today will in the long run strengthen the program toward hitting the target we have been attempting to hit in the past. The continuation of disabling diseases, stroke, unfortunately the very profound problem of Vietnam veterans and some of their needs for vocational rehabilitation, and the preservation of life that has become possible with other medical treatments but has resulted in more people with disabilities—I think all these factors may lead us to question one day, if we simply accept this bill on its face value and adopt all the changes and the multiplications that are involved in it, whether we have taken a sound step at this particular time.

Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 46, line 16, strike out everything through page 51, line 24.

Mr. TAFT. Mr. President, the effect of this amendment would be to strike, starting on page 46 of the bill, all the language in title II which goes through the bottom of page 51.

The purpose of title II, on which I have already commented briefly, is to provide comprehensive rehabilitation services. The bill states that the purpose of title II is to authorize grants to assist the States in developing and implementing continuing plans for meeting the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible, in-

cluding the assessment of disability and rehabilitation potential, and for the training of specialized personnel needed for the provision of services to such individuals and research related thereto.

I would be the last to say that there is not a need, a very real need, for many individuals who are disabled, for whom a vocational goal is not possible or feasible, and who have a need for an assessment of their disability and rehabilitation potential, and for the training of specialized personnel needed for that very worthy purpose. But the question really is whether it belongs in a vocational rehabilitation program and whether, with the demands of this particular need—of which there are considerable, indeed—we may not, in effect, be setting up in competition with the vocational rehabilitation programs another door for expenditure, another program which on its own perhaps might be a very worthy program for the Senate to consider.

The likely effect seems to be to divert the vocational rehabilitation program from its clear employment oriented objective to a medical and social service objective, not unlike present services administered by HEW.

Employment is one of the goals of vocational rehabilitation programs. It seems to me it is an essential part of its character.

The danger is that title II would undercut this major strength and threaten such programs as medicare, medicaid, social services under the Social Security Act, development disability programs, and the educational program for the handicapped.

In addition, title II could do a disservice for, being aimed at less than an employment objective, it stops short of the individual's full potential in some cases.

I feel the comprehensive rehabilitation service which is proposed by title II, setting up an additional program for payment to the States but under the aegis of the vocational rehabilitation approach, is not wise at this time. Perhaps separate legislation and a separate budget should be considered for it. but I question seriously whether this should be attached here and start on a new program, and not basically a vocational rehabilitation program according to the bill. For that reason I suggest that the amendment should be supported.

Mr. CRANSTON. Mr. President, we had testimony last Congress and this Congress from many witnesses and from important organizations on behalf of this particular title; for example, the United Cerebral Palsy Association, the National Association of Coordinators of State Programs for the Mentally Retarded, and the National Association for Retarded Children.

I feel it is an error to say this new program would "undercut" the basic VR vocationally oriented basic program. In fact, this program has its own separate authorization of appropriations.

It is also a misconception to consider this a nonvocational program. Basically, this program offers the possibility that some individuals for whom a vocational goal is not initially possible can, with help under this new title, move toward a vocational goal under the basic program.

There is a real and humanitarian need to provide some services—not now available in the vocational rehabilitation program or anywhere else—to assist those who are too old for a vocational goal or too handicapped for one, to live more self-sufficient, independent lives. It is also quite possible that in the course of serving such an individual, a vocational outcome may become feasible.

Through this program, and the individualized written rehabilitation program requirement in the bill—section 102—individuals will not slip through the cracks as "too handicapped" to be helped. The individualized assessment of each person required in the bill will overcome the tendency now to classify an individual as having no vocational potential because he would be "too difficult" a case to rehabilitate. Instead, if that assessment can fairly be made, he still qualifies for title II services.

For these and other reasons elaborated upon at length in the committee report on pages 12 to 14 and 30 and 31, I oppose the amendment and urge its rejection.

Mr. STAFFORD. Mr. President, title II of S. 7, Comprehensive Rehabilitation Services, was designed to assist individuals who may not presently have a vocational goal. Its inclusion in S. 7 marks an explicit resolve on the part of the Congress to build a flexible program which can provide a continuum of services for handicapped individuals. Recognizing that individual conditions are not static and that training can be progressive, this provision realizes that an individual who first approaches a rehabilitation program may not appear to have a vocational goal.

To suggest that those without immediate vocational goals are not deserving of service flies in the face of every value that this Nation stands for. It imposes an inflexibility on the program and on the changeability of the human condition which violates the individual's right to equal opportunity and equal protection of the law.

For those reasons and the reasons advanced by the Senator from California, with reluctance I have to oppose the amendment of the Senator from Ohio.

Mr. CRANSTON. Mr. President, I wish to point out that this amendment was offered in committee and rejected unanimously by the subcommittee.

Overwhelming testimony has demonstrated to our satisfaction that there are no existing programs meeting the rehabilitation needs of individuals which title II is designed to address.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. TAFT. Mr. President, I would like to go over the matter in more detail at this point, and mention similar authorities that already exist in the present law with respect to treatment of the type we are talking about under title II.

We have service programs for families and children and for aged, blind, or disabled individuals under titles I, IV—parts A and B—X, XIV, and XVI of the Social Security Act, we have medicaid eligibles under title XIX of the Social Security Act, who may receive specified services of a purely medical nature, depending on the extent of coverage under the Medicaid Act in each State, and we have individuals who have been receiving disability insurance benefits under title II of the Social Security Act for 24 months or more who have been made eligible for medicare under title XVIII of the Social Security Act.

So we already have in this field quite a number of programs that are ongoing, to add to them and in some cases to delegate them under the caption of "Vocational Rehabilitation." It seems likely to cause a degree of confusion and I hope this could be avoided.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. COTTON. Mr. President, I wish to call to the attention of the distinguished Senator the fact that in our Subcommittee on Appropriations, the subcommittee that handles Labor and HEW, and I have been the ranking minority member of that subcommittee for nearly 12 years, each year we have been appropriating more for the very programs that the distinguished Senator from Ohio outlined so well. I find it difficult to believe that those programs that we are financing cannot and do not reach into every crevice where it is necessary. I realize we had the vetoed bill last year, which was a new situation, but I refer to those programs already in HEW and in other departments, but in particular the ones in HEW.

With respect to these objections about people who are ineligible, those instances must be very rare for I doubt if there are any instances where there has been rejection on the grounds suggested by the distinguished manager of the bill. We keep increasing those appropriations but one great trouble is that we counted this last year 27 training programs running through HEW, the Department of Labor, the Department of Agriculture, the Pentagon, the Veterans' Administration, the Department of Interior, and there are more. We counted 27 ongoing programs and a large number of them reach the blind, handicapped and others in almost every circumstance. I feel so strongly that what we do not need is a further proliferation and splintering of these efforts under new heads and new organizations. What we need, as has been so well said by the Senator from Ohio, is to stick to the part of the bill that really reaches the target, and there is a need to lay a firm foundation for rehabilitation of the handicapped. I want to vote for it. I think the Senator from Ohio is so right in this particular amendment, and I shall certainly support it.

Mr. TAFT. I thank the Senator for his remarks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The amendment was rejected.

Mr. TAFT. Mr. President, I send an

amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 78, line 2, after "1974" change the semicolon to a period and strike all through "year" on line 3.

Mr. TAFT. Mr. President, the effect of this amendment, which relates to the section of the bill that provides for grants for services for end-stage renal disease—that is, kidney disease—would be to delay for the fiscal years after the fiscal year for which we are currently budgeting—in other words, after the fiscal year ending June 30, 1974—the authorizations of $25 million for the fiscal year ending 1975 and for the succeeding fiscal years thereafter.

The reason why I suggest that this deletion should occur is that, again, in a vocational rehabilitation bill we are adding an emergency program. I certainly am not one to deny the need in an emergency. I think all of us have been contacted by friends, constituents, and others who have presented very tragic circumstances with regard to those who were afflicted with kidney disease that necessitated transplantation or treatment by artificial kidney machinery that is involved in a dialysis type of operation. The need is there, but in this very brief section of the bill we really have very few directions of any kind, other than a mere grant of money, or an authorization of a grant of money, and, again, I think a grant of money that would be questionable as to its actual size or adequacy, in meeting the needs nationally, if that is what we are trying to do, that are found in the vocational rehabilitation bill.

I have talked with a number of physicians of my acquaintance, and, to a man, they have concurred with my impression that end-stage renal disease is not a disease for which vocational rehabilitation is a remedy or a treatment that is generally prescribed. There is a major physical problem that is vocationally related. Before one can proceed or before one should proceed medically to the medical aspects that might develop at some later time of a particular case, one has to deal with that medical problem, one way or the other, by transplantation, by continued dialysis, by other treatment, but basically there are medical treatments other than vocational rehabilitation.

I think this was amply testified to just the other day on the floor of the Senate. The distinguished Senator from Minnesota (Mr. MONDALE), just on February 26, introduced S. 994, the Kidney Transplant Act of 1973. This measure, if passed, would establish a major program under the Secretary of Health, Education, and Welfare to make grants, on approval of State health authorities, and provide for very comprehensive State plans. It goes into great detail as to the very difficult medical program that is involved. It even goes into training grants for care of renal disease. It goes into the establishment of a renal failure center. It goes into the establishment of transplantation facilities and many other aspects that go into the question of handling end-stage renal problems.

I have the feeling that if we throw into this particular bill any authorizations requested, $15 million for this fiscal year, $25 million for next fiscal year, and $25 million for the next 2 fiscal years, we are going to see again a little empire get started, with its own authorization and its own claim for appropriations within the vocational rehabilitation framework, somehow, that really will be competing with a serious, and I would hope very early, consideration of comprehensive legislation dealing with the disease of renal failure.

I have not attempted to cut off the appropriation for this fiscal year, or even the next fiscal year, because it seems to me possible that comprehensive legislation such as embodied in S. 994 might not be considered and passed in time to pick up emergency needs. I know some States are in dire shape to provide for these medical facilities. Certainly no American who needs this treatment should be denied it because of no emergency funding to take care of it. But when we move to fiscal year 1974 and 1975, we are not talking about emergency funding; we are talking about what ought to be a fundamental, comprehensive solution of the problems of end stage-renal disease.

Mr. CRANSTON. Mr. President, presently most State rehabilitation programs—41 States serving 4,100 persons—are serving individuals with end-stage renal disease, although they are serving far too few.

Regarding renal disease coverage in H.R. 1, coverage is there provided only after 90 days. The cost for the first 90 days is estimated at $2,000 before medicare would take hold. Also, medicare will not provide eligibility for all end-stage renal cases. It will not cover Federal employees or railroad retirees, for example. Thus, some will fall between the cracks outside the social security system and not be eligible for renal disease coverage under medicare.

I ask this: Why should a man with renal failure and a wife and two children have to become financially destitute in order to be assisted in meeting his catastrophic needs for dialysis or transplant during the first 90 days? That is the present situation for the first 90 days. After 90 days, medicare will cover most cases, but before that, if health insurance does not cover it, the only recourse is medicaid.

It should also be stressed—and I think this is extremely important—that a person can exist with uremia—poisoning of the blood stream by malfunctioning kidneys—for only 19 days. He then will die. He cannot wait 90 days for help.

For these reasons, as well as others set forth very cogently on pages 13, 14, 34 and 35 of the committee report. I urge that the amendment be rejected.

I think we should heed the advice of the National Kidney Foundation, which stated on January 10:

The recently passed amendments to Social Security, P.L. 92-603, provides comprehensive disability insurance for hospital and medical costs of end-stage renal patients. It does not provide for retraining. The Social Security Administration in its literature states: "Everyone who applies for social security benefits is referred for possible services to his State rehabilitation agency. Their services help many people to return to productive employment."

In reality this bill will complement the kidney disease amendment contained in Public Law 92-603. The committee knows that paying for medical care does not put the patient back to work. In short we submit that the kidney disease amendment in the Rehabilitation Act of 1972 has a strong vocational retraining element; that is, does not duplicate existing services but rather complements them; and it is not a categorical approach.

The National Kidney Foundation, therefore, recommends you once again include kidney disease support in your bill in the 93d Congress.

The thrust of this amendment was also rejected unanimously in committee. I urge that it now be rejected.

Mr. TAFT. Mr. President, if the Senator would yield, I would like to ask the Senator whether he listened to the amendment when it was read, because the amendment I have offered was not offered in committee, as I understand it. And the statement made by the Senator from California really had no application to the questions I raised in discussing the amendment. In discussing the amendment I made the point that I was cutting off the 1975 and 1976 funding because I felt that by that time we should not have a duplicate funding situation on the books. I thought that by that time a comprehensive end stage renal failure bill and program should have been put into effect and considered very carefully.

I had hoped that this amendment was one that the Senator would feel would strengthen his position rather than weaken it. All of the arguments that he makes as to emergency funding for the current fiscal year and for the next fiscal year have been considered. I would be the last to say that I do not think money should be provided for this at this time. However, I think that we ought to put on the heat so that we might take care of this without having to take it out of funding for the vocational rehabilitation legislation because this is a problem that is basically a medical problem and one which I think ought to be handled comprehensively under a medical consideration of this subject to help those who have this type of problem.

Mr. CRANSTON. Mr. President, all that I said would apply after July 1, 1973. It is correct that this precise amendment was not rejected in committee.

Mr. TAFT. Mr. President, I correct the Senator again. The amendment that has been offered is not perhaps the amendment the Senator has before him, because it did not cut off 1974 funding. As read, the amendment cut off funding only for 1975 and 1976. I feel that by then we should have comprehensive legislation.

I would hope that the Senator would agree—and that is through the emergency, really, jury-rigged approach to the problem that we have in this particular section of the bill—that it should be regarded only as an emergency and be phased out within the period of 2 years.

Mr. CRANSTON. Mr. President, as it is, under the Senator's amendment as I now have it, the 90-day gap would not be covered in those years after fiscal 1974.

Mr. TAFT. If the Senator would yield, the 90-day gap would be covered. It would not in any way affect the proposal in the bill with regard to the 1973 or 1974 fiscal year.

Mr. CRANSTON. In fiscal 1975 and thereafter, though, there would be a 90-day gap unless the law had been changed in the meantime.

Mr. TAFT. The Senator is correct. A completely new law has been introduced by the Senator from Minnesota (Mr. MONDALE) this very week. I believe that that bill would have been acted upon by that time. And if not, I think we should have pressure put on again to reconsider this question and not have it drag along and be encompassed in a vocational rehabilitation bill.

Mr. CRANSTON. I think it would be better to wait and see what happens in those future years legislatively. If we find that this situation has changed, we can amend the renal disease program, or not seek funds through the appropriation process. But I would rather deal with that situation when other changes are made in the law, not anticipate such future legislative actions.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was rejected.

Mr. TAFT. Mr. President, I send to the desk an amendment in the form of four amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

On page 104, line 1, strike out everything through page 108, line 2.

On page 108, line 18, strike out everything through page 111, line 23.

On page 112, line 1, strike out everything through page 115, line 11.

On page 115, line 12, strike out everything through page 118, line 19.

Mr. TAFT. Mr. President, the amendments, en bloc, that have been proposed relate to pages 104 through 117, and a part of page 118 of the bill. They relate to new subagencies that are set up within the Department of Health, Education, and Welfare. They set up, first of all, in an office for the handicapped, the separate office for the handicapped, an office to be headed by a director really serving as an assistant to the Secretary.

The functions of the office are defined here, and presumably outlined by statute, subject only to the possibility of change by the Secretary of Health, Education, and Welfare or the President under the Reorganization Act. They set up the exact structure that must be used in the handling of this problem.

Insofar as the next item that is changed is concerned, the next agency that is set up is the Federal Interagency Committee on the Handicapped, which spells out in detail the various officials of this group who are to participate. It tends to structuralize the exact way in which discussions between various agencies are to be conducted and the problems of the handicapped shall be carried on.

Next, there is set up a National Commission on Transportation and Housing for handicapped individuals. It has been an ongoing concern that is already provided for in the statutes.

Another board is set up, a board which gets into the line area on page 115 of the bill. It sets up an Architectural and Transportation Barriers Compliance Board, and an Office for the Handicapped.

The establishment of these various boards, commissions, and offices, in the opinion of the Department, is considered to be an impediment. It is a proliferation of entities that is costly and undesirable, since they would tend to fragment accountability for results and further complicate the already almost incomprehensible administrative maze of Federal activities, especially in the Department of Health, Education, and Welfare.

The setting up of these four separate boards proliferates responsibility and makes it more difficult, I think, for the department to fulfill its real relationship to the handicapped. It would be, in my opinion, a great mistake. This amendment would seek to correct that mistake.

Mr. CRANSTON. Mr. President, this amendment seeks to strike four very important new broad-ranging approaches from the bill. This amendment was offered in subcommittee and unanimously rejected.

Mr. President, regarding the Office for the Handicapped, HEW cannot tell us how many information dispensing functions it has and has no single publication explaining all its programs for handicapped persons. It is thus not surprising that it is unable to coordinate all these programs under a central planning and coordinating authority.

HEW has no clear overall handicapped strategy cutting across the many programs dealing with that population—for example, vocational rehabilitation, developmental disabilities, education for the handicapped, mental health, public assistance, VA, and so forth.

With respect to the Federal Interagency Committee on Handicapped Employees—section 701 of the bill—the Federal Government employed, in 1971, the excepted service for the whole Federal Government, only 498 severely handicapped persons were hired, an unquestionably low figure. Currently, there are 1,079 such employees out of 2½ million Federal employees on board, again an unquestionably low figure.

The CSC unit involved in this has a very minimal staff—three professionals. In response to an administration initiative, an amendment in the February 6 executive session made the CSC Chairman the Vice Chairman of the new Interagency Committee.

With respect to the Architectural and Transportation Barriers Compliance Board the two public laws requiring accessibility of federally supported construction and transportation to handicapped individuals have no compliance mechanism. Compliance has in fact been very sporadic, and there is a great deal more that can be done with these laws already on the books to open up more and more buildings, areas, and transportation modes to handicapped individuals.

The laws are not now being enforced; handicapped persons are not being given the help or the access they should be given and which the law requires.

There is still much more to be learned about the provision of such accessibility. The National Commission on Transportation and Housing for Handicapped Individuals provided in this bill—and incidentally, it was originally a House provision—is designed to close that learning gap.

For this and many other reasons, I urge that the amendment set forth very cogently on pages 15, 16, 51, and 52 of the committee report, be rejected.

Mr. STAFFORD. Mr. President, S. 7 would create a Federal Interagency Committee on the Employment of the Handicapped, a National Commission on Transportation and Housing, an Architectural and Transportation Barriers Compliance Board, and an Office for the Handicapped. These entities as such would have no direct connection to the vocational rehabilitation program. They were created to span all programs which affect the handicapped, to deal with serious problems that presently exist, and to escape the restrictions inherent in a single program.

Such problems as unfounded discrimination in employment and in housing, difficulties of access to places of work and treatment centers, and duplication and fragmentation of services across program lines were voiced to the committee.

For this and the reasons stated by the Senator from California, I urge the defeat of the amendment of the Senator from Ohio.

Mr. RANDOLPH. Mr. President, I commend the Senator from Ohio for the diligence and purpose with which he addresses himself when he offers the amendment which we have considered in committee and are now considering on the floor.

There are two factors that he discusses this afternoon which were the subject of amendments, as Senators know, which I was interested in presenting in the Subcommittee on the Handicapped and the full committee. I give only one example: We have the Architectural Barriers Act which was passed by Congress, and I believe my able colleague from Ohio, in his study of this particular problem of providing for the handicapped, realizes that frankly there has been no real enforcement of that statute. Has he checked that out to see just what has happened? That is a failure to provide for the mobility of the handicapped to move in the public buildings in the United States.

Mr. TAFT. The distinguished chairman of the subcommittee is, of course, aware that there are great deficiencies in regard to this program. The act has been on the books for a period of time, and has not really been adequately enforced.

The question I have is whether or not putting it in the law here and setting up a compliance board to survey it will

make it any better than the present authority the Secretary of Health, Education, and Welfare would have with regard to the matter, or that the other Federal agencies would have with regard to it. I hope it will, of course, but I have my doubts.

I think what we need in many of these programs is not more boards and commissions; what we need is better enforcement and better attention to what the provisions of the law are. I question whether a proliferation of Federal authorities and a Balkanization, really, of the responsibility involved will have the effect which is desired. I hope it will, but I do not think it is going to.

Mr. RANDOLPH. Mr. President, I can understand the assessment of the Senator from Ohio of this particular problem; and, although we are in disagreement, I think rather than putting a topping on something we are really focusing attention on a deficiency which exists at the present time, in that the architectural barriers and the transportation barriers which are a real hindrance to the movement of handicapped people in the public buildings of the United States is a matter of concern. I consider it, not as proliferation, but as zeroing in on a problem, and we are giving attention to it, I think, in this bill.

Another amendment offered by me established a Federal Intergency Committee on Handicapped Employees, to which the eminent Senator has addressed himself this afternoon. I look upon that, not as the splintering of our effort, but the development of a cohesiveness of an effort to have the Federal agencies give the attention which is necessary to these matters of hiring, placing, and promoting the handicapped that this bill will do.

We need, if we need anything now, and I think we need it very urgently, to be positive and affirmative in our actions in reference to the handicapped segments of our society.

I feel that, in the plans that we make, which include, of course, hiring, promotion, and placement, this perhaps in a sense should be as important as the other programs we have developed. In these two areas that I speak of, the interagency programs for the handicapped workers and the architectural and transportation board we are not, as I said and repeat, attempting to create a circle of redtape, but in fact we are recognizing a need and attempting to remedy it.

For that reason, I would oppose the amendment offered by my colleague from Ohio.

Mr. TAFT. Mr. President, will the distinguished Senator yield?

Mr. RANDOLPH. I am delighted to yield.

Mr. TAFT. I would just like to recognize the fact that the distinguished Senator from West Virginia has provided great leadership in this area and in many other areas of human concern, in, as he *has done* here today, calling the attention of the Nation to problems of people who have disadvantages of this kind, who are in great need of assistance.

This, however, in my opinion does not really go to the question of the amendment. I would be 100 percent behind the Senator in calling before the committee for hearings, at least once a year, in the exercise of our oversight functions, the Secretary of Health, Education, and Welfare, after having made a request on his Department previously to give us a report in writing as to exactly what has been done with regard to their particular areas of concern. Having the Secretary before us and putting that question to him, and demanding a reply from him, in my opinion, would be far more likely to really tend to bring about the kind of backing, publicity, and effective action that we all want to bring about in these areas.

I question seriously whether appointing someone to a commission or board that gets lost in the masses of bureaucracy somewhere among the hundreds of thousands of employees of the Department of Health, Education, and Welfare is the way that the end the Senator would seek to achieve is going to be achieved. I am afraid it is not a responsibility that we can delegate by simply writing it into the law. However, it is one which we have to take up and assume, and continue to carry the burden of, to make sure that the job is effectively done.

Mr. RANDOLPH. I think that the Senator from Ohio is correct to a degree. I commend him on the belief that we have to have oversight and review hearings, a continuing check. I think committees in the Senate, and in fact in Congress, have been derelict in looking at what the agencies do in carrying out the intent of Congress on many subjects, and I agree with that. I do feel that there is need for continuing authority to make certain that barriers are eliminated and that handicapped individuals are hired in the Federal Government. In one of the items that the Senator speaks to, the employees that will be added, and so forth, neither the Committee nor the Board would create many new jobs. The heads of the agencies existing today are members of both. In a sense, as I understand it, S. 7, calls for coordination, which we have not had before. So when we think of that, we are using, frankly, the existing agencies and we are placing them on notice, if we agree in this bill as we drafted it that there is the existing agency structure, which is to be utilized in hiring, placing, and promoting handicapped individuals. That also applies to the Architectural and Transportation Barriers Compliance Board.

We are using existing authorities but we are saying to them, Senator HUGHES, "We are asking you to do what you failed to do," and that is to give mobility and accessibility to the handicapped, and to give the right and opportunity for employment, promotion, and feasible placement to the handicapped of this country.

So for all those reasons, and they are overriding to me, but I am not in any way disparaging the approach of the Senator from Ohio, I believe after consideration in the subcommittee that the Senate should well trust the majority in reference to these matters.

I hope, therefore, that the amendments will be defeated.

Mr. COTTON. Mr. President, I may have missed it in the RECORD, but I think the RECORD should show that this is an on-going program. In view of the fact that this is one of the bills on which Congress is seeking a showdown with the President, it would be in order to show that the President's estimate of this particular program is over $700 million. The authorization will be almost double that in 1974 and will increase further in fiscal 1975. In other words, if one has listened to the debate up to this point, he could assume that this was a new program and that we on the Appropriations Subcommittee on HEW, who happen to be charged with the responsibility of appropriating, know that the President has not asked for it.

Mr. TAFT. Mr. President, I ask unanimous consent to include in the RECORD a statement by Mr. Stephen Kurzman, Assistant Secretary for Legislation, before the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare.

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

STATEMENT OF STEPHEN KURZMAN

Mr. Chairman and members of the Subcommittee, it is a great pleasure to appear before the Subcommittee on the Handicapped to discuss the extension of the Vocational Rehabilitation Act. My remarks will be directed in particular to H.R. 8395, the Rehabilitation Act of 1972, which was rejected by the President at the end of the 92nd Congress.

I should like to begin my testimony by noting an important coincidence. These hearings are taking place just after the dedication ceremony honoring the late Mary Switzer and renaming the HEW South Building as the "Mary E. Switzer Memorial Building." Mary Switzer was one of the major advocates within HEW and its predecessor agencies for the Vocational Rehabilitation program for more than 40 years, and her efforts and those of many members of this Subcommittee have over the decades contributed greatly to its successful growth. I hope that we can work closely together to produce a bill extending the Vocational Rehabilitation program which will preserve the excellent record which has been so painstakingly achieved.

OVERVIEW

This Administration enthusiastically supports the Vocational Rehabilitation program, which is directed toward assisting vulnerable individuals who, without vocational rehabilitation, would not be able to function physically in a work setting as their more fortunate peers can. The State formula grant program is one of the most successful of HEW's activities. It has done much to assist handicapped individuals, who would depend on others for their well-being, to attain the maximum degree of self-sufficiency and personal satisfaction. No program is more consistent in its objectives with the historic American ideals of independence and equal opportunity for every individual. For this reason the program has enjoyed widespread, and deserved, public support. The great success of this program is attributable principally to three factors.

First, and by far the most important, is its clear goal: the achievement of self-sufficiency through employment. The clarity of this goal makes the program much more accountable to the public since employment is a measurable concept. It also facilitates sound management because all concerned with the program are clear as to its mission.

Second, the program is not only humanitarian, it is also cost-effective. Resources invested today in preventing or reducing dependency can yield major long-term economies in the application of society's resources. One disabled individual may, during a life-time, receive anywhere from $30,000 to $100,000 in public assistance payments. But if he were not dependent, and had an average annual income of $8,000, the same individual in a family of four would pay taxes totalling $42,000 over his lifetime. Thus, when a handicapped person is helped to become a contributing member of society, he is transformed from a charge on the public into a productive person able to contribute through his taxes to helping others.

Third, a sound Federal-State partnership has developed in this program. General policies are formulated jointly, but administration of the program is decentralized so that the States have considerable flexibility in implementation of policy.

These three major strengths of the program are also essential parts of this Administration's views on extension of the Act. We seek to improve the program by building upon its strengths.

ADMINISTRATION'S EFFORTS TO ASSIST THE DISABLED

The Nixon Administration has continued the growth of the Vocational Rehabilitation program and the development of new initiatives in it which were begun in the Eisenhower Administration. For example, when President Nixon took office in 1969, the basic service program authorized by Section 2 of the Vocational Rehabilitation Act was funded at $346 million. The President's budget request for Section 2 in FY 1974 would increase funding to $610 million.

With the growth of the program, we have had to make choices and set priorities. Because of our emphasis in general on providing Federal assistance where it is most needed, we have sought to target services on the severely disabled and on disabled public assistance recipients.

The Administration has set a target of reaching and serving all disabled public assistance recipients. During FY 1972, the program served 191,600 such individuals, 51,084 of whom were rehabilitated and placed in jobs. Additional funds for rehabilitating disabled public assistance recipients are anticipated under Title XVI in the Social Security Amendments of 1972, which will become effective on January 1, 1974. As you know, Title XVI federalizes the administration of such assistance to needy aged, blind, and disabled persons. Under Section 1615 of Title XVI, the Secretary is required to provide for the referral of any blind or disabled individual under 65 to the State Vocational Rehabilitation Agency for a review of his disability and a diagnosis of his need for whatever rehabilitation services are available under the State vocational rehabilitation plan. The Secretary is then authorized to reimburse the State agency for the cost of such services. The FY 1974 budget contains $40 million for this new effort to tie together resources for the benefit of the handicapped.

In addition, we are in the process of developing for the Vocational Rehabilitation program a "weighted case closure system" which will give greater weight to the closing of more difficult cases than to successes achieved with relatively easier ones. Preliminary studies indicate that such a system would result in greater effort to serve those with the greatest need for assistance, who are often the more severely disabled.

Apart from services, Title XVI of the Social Security Act also represents a major step forward for the disabled with regard to their income. When the new adult assistance program goes into effect on January 1, 1974, it will establish a Federal floor on income for the aged, blind and disabled. Nationally uniform eligibility requirements will replace the multiplicity of requirements that now exist in the State-administered programs. These varying requirements have resulted in great inequities for the disabled and the blind. The new Federal floor will provide a minimum income of $130 a month for an individual and $195 for a couple. State governments may, at their option, supplement these levels. The FY 1974 budget request for this program is $1.7 billion for the first half year of assistance payments and $150 million in "hold harmless" payments for States which supplement the Federal payment floor. It is estimated that 6 million aged, blind and disabled persons will receive payments in the last half of FY 1974 under this new program.

In addition, the Social Security Amendments of 1972 also extended Medicare coverage to all the disabled who have been social security disability beneficiaries for two or more years. This new coverage, effective July 1, 1973, is expected to add 1.7 million disabled persons to the Medicare program and increase benefit outlays by $1.5 billion.

Clearly, the Administration is deeply committed to assisting the disabled both through support of improved vocational rehabilitation services and through major commitments to increasing their income and expanding their health care opportunities.

THE ADMINISTRATION'S OBJECTION'S TO LAST YEAR'S BILL, H.R. 8395

Let me say at the outset that H.R. 8395, the Vocational Rehabilitation (VR) extension bill that was approved by the 92nd Congress and rejected by the President, contained in one form or another most of the innovations proposed or supported by the Administration. These included increased training allowances for VR clients being trained for employment through special projects in rehabilitation facilities; extension of the basic State formula grant program to American Samoa and the Trust Territories; authority to reallot unmatched Section 2 funds; authorization of joint funding and administration with other public agencies; increased funds for evaluation; and consultation with consumers in program development at the State level. S. 7 introduced by Chairman Randolph in this session, also includes these provisions. However, while the Administration strongly supports the Vocational Rehabilitation program and urged that legislation be enacted to extend it, we strongly opposed certain provisions of H.R. 8395, and it was these additional provisions which led the President to veto the bill. First, the authorization levels set for the program were in the aggregate far too high. The authorizations for the first year totalled over $1.089 billion and thus exceeded budget requests by at least $423 million, an increase of more than 60 percent. Such an authorization increase only widens the expectation gap and raises false hopes, for these levels are far higher than the Congress would appropriate or the Executive would approve. They are also far beyond the amounts which could be used effectively.

Second, H.R. 8395 contained provisions which would have diverted the Vocational Rehabilitation program from its clear employment-oriented mission to a medical and social service mission not unlike that of numerous existing health and social service programs administered by HEW. As I mentioned earlier, the employment mission is one of the hallmarks of success of the Vocational Rehabilitation program. The proposed change would have undercut its major strength and would have duplicated such existing non-employment programs as Medicare, Medicaid, social services under the Social Security Act, the Development programs for the handicapped.

Third, H.R. 8395 would have established a number of new, independent, categorical aid programs which would have weakened the management of the Vocational Rehabilitation program and raised costs without providing commensurate results. Separate authorizations were added for services to the severely handicapped, the aged blind, those suffering from end stage renal disease, the spinal cord injured, and the deaf. The objectives of all of these new authorities can be achieved under existing law and in fact are being pursued.

The extreme categorization reflected in H.R. 8395 would thus have required duplication of effort and waste. It would have required excessive and costly administration and fostered additional bureaucracies at the Federal, State and local levels. It seemed to us to have been based on the false premise that we in Washington, and only we, know what is best for handicapped people and must order State and local priorities in accordance with our views.

Finally, we also had strong objections to those provisions in H.R. 8395 which would have vested policy and program management in the Commissioner of the Rehabilitation Services Administration, rather than in the Secretary of HEW. The Secretary cannot be expected to administer a program effectively when all statutory power to set policy and manage the program is vested in the Commissioner. This fragmentation of power prevents effective, coordinated management of programs designed to assist the handicapped.

Often the results of such fragmentation at the Federal level are uncoordinated, isolated program efforts at the local level which do not benefit those individuals and groups which the legislation is designed to serve.

Further impediments to good management were presented by the provisions establishing new organizational units with responsibilities for the disabled, including an Office of the Handicapped in the Office of the Secretary of HEW; a National Commission on Transportation and Housing for Handicapped Individuals, also in HEW; an Architectural Barriers Compliance Board, apparently independent of HEW; and a Federal Interagency Committee on Handicapped Employees.

Such a proliferation of entities would be highly undesirable since it would fragment accountability for results and further complicate the already almost incomprehensible administrative maze of Federal activities. We desperately need consolidation, not further proliferation in the Federal structure.

Finally, the Administration objected to the creation of mortgage insurance and interest subsidy programs for rehabilitation facilities. Basic State formula funds are now available for construction grants, if the States choose to use them for this purpose.

CONCLUSION

In conclusion, Mr. Chairman, the Administration wishes to cooperate with the Congress in extending the Vocational Rehabilitation program. We hope that by spelling out our objections to H.R. 8395 we can convince this Subcommittee that the programs should not be burdened with changes which will, in the end, reduce its proven effectiveness in helping handicapped people achieve independence through employment.

Thank you for the opportunity to testify. I will be happy to answer any questions you may have.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the amendments en bloc of the Senator from Ohio (Mr. TAFT).

The amendments en bloc were rejected.

Mr. JAVITS. Mr. President, I join the distinguished Senator from West Virginia (Mr. RANDOLPH) in his statement regarding the efforts of the distinguished Senator from Ohio (Mr. TAFT) to amend the bill. I consider that this is entirely constructive. These are questions that

needed to be raised. The administration had the right to have them raised.

As the ranking member of the committee, I would have felt it my duty to do it myself, but as I did not agree with the amendments, it is most constructive that the Senator from Ohio took the opportunity to lay them so effectively before the Senate. I join the Senator from West Virginia in expressing that appreciation to the Senator from Ohio. In no way does it diminish the fidelity of his purpose, which is as great as that of any of us, to see that the fundamental thrust of the bill to benefit the handicapped is effectively carried out.

Mr. CRANSTON. Mr. President, I want to express my pleasure in working with the distinguished Senator from Ohio (Mr. TAFT) even when we are not always in agreement. But there are many things that we do agree on. I know that he believes that what he proposed was in order because the administration wanted those amendments presented to us. The amendments have been fully aired, and we are now ready to vote on a bill that I think is an excellent one and will help to render great service to handicapped persons who need these services so badly.

Mr. President, I think we have today, and in detail in the committe report, totally rebutted and specious arguments in the President's veto memorandum. The subcommittee on the handicapped thought that way and voted unanimously to report S. 7 as amended, in the process rejecting unanimously the administration's gutting amendments. The Committee on Labor and Public Welfare thought that way and voted 16 to 0 to report S. 7, as amended, to the Senate.

I feel confident that the full Senate will agree and will give this fine piece of legislation the overwhelming vote of confidence it deserves and which the handicapped individuals in this Nation fervently hope will be forthcoming.

The House Committee on Education and Labor yesterday voted to report the House counterpart bill, and it is expected the bill will be taken up by the House early next week. I feel we can speedily resolve the relatively minor differences between the two versions of the bill and send the bill to the President for his reconsideration by the middle of next month.

If he should decide to veto it again, this time the legislative branch will have a chance to work its will, and I am confident the Congress will vote to override any such unwise veto.

I am ready for third reading.

Mr. TAFT. Mr. President, I should like to say how much I appreciate the kind remarks my colleagues have made, including these of the distinguished Senator from New York (Mr. JAVITS) and my very good friend and colleague from California (Mr. CRANSTON).

I have not commented on this during debate, but I feel rather constrained before its close, to mention the matters brought out by the distinguished Senator from New Hampshire (Mr. COTTON) with regard to the apparent desire on the part of some, insofar as the timing is concerned, to place back on the desk of the President each and every measure which he vetoed during the last stages of the last session of the Congress.

In some ways, I can understand that, when the majority in Congress is of one party and the President is of another party. Perhaps it is inevitable. But it seems to me unfortunate from the point of view of enacting sound legislation that we should lose so much time so early in the session, although there are pressures apparently being brought to bear to set time deadlines.

Indeed, I would say, and I think without fear of contradiction, that without my personal intervention in this matter, the members of the committee really would not have had a chance to consider many of the matters in any detail at all, and that the bill would have come to the floor of the Senate about 2 weeks ago.

I have no desire to delay this particular piece of legislation. I intend to support it. But when legislation of this kind—and it is legislation without any partisanship and, really, without any major philosophical differences surrounding it—becomes a vehicle for a political plan, it seems to me it may do some disservice to all the legislative subjects with which Congress is attempting to deal.

In my presentation here today, it has been entirely in accordance with my beliefs and my conscience insofar as these particular amendments are concerned. They are based on my feeling, at least insofar as this piece of legislation is handled in this way, that they should have been offered to the Senate and pointed out to the country.

Mr. RANDOLPH. Mr. President, I shall not speak very long because Senators are ready to vote, but I wish to commend the distinguished Senator from Ohio (Mr. TAFT) and reaffirm my commendation of him.

I would want the RECORD, however, to be very clear that the essence of this legislation is the product of the Senate last year when it went into these matters extensively over a long period of time. There was no lack of testimony. There was no lack of consideration of the testimony. There was no lack within the subcommittee and the full committee of dealing with or attempting to cope with the problems which have been raised by the Senator from Ohio. He is correct, and I agree with him that no legislation, no matter how urgent it is, should be brought to this floor without the careful consideration of the committee having jurisdiction. I again commend him.

Mr. CRANSTON. Mr. President, I wish to emphasize in closing that we have gone out of our way to preserve what we have had all along the way—a bipartisan approach to this measure. We originally scheduled the hearings and action in the subcommittee for early January. We delayed until February, at the request of the administration. We were ready for action in the subcommittee in early February and then delayed again to give further opportunity for amendments to be raised.

At every stage of our deliberations, and in our final actions, we have had bipartisan support, with votes in the subcommittee and the committee on the movement to the floor all being unanimous. And we have made certain accommodations to the viewpoint expressed by the administration in the vetoes by reducing the appropriations authorizations for fiscal years 1973, 1974, and 1975 by $352 million.

We have a record that will show that we have made every effort, and have succeeded in making this a bipartisan measure—and by no means a partisan issue in all its aspects.

Mr. RANDOLPH. Mr. President, I think it is also helpful that we have brought to our attention, as the Senator from New Hampshire (Mr. COTTON) said earlier this afternoon, that there are some reductions in the authorizations in the bill this year as against last year. It amounts to a lower figure, perhaps, than he would like and others would like, but it is nevertheless a substantial reduction. I think $352 million is the correct figure.

Mr. CRANSTON. That is correct.

Mr. RANDOLPH. So that there was an effort even there, in a sense, to keep in mind the feelings of the Members of the Senate as well as those who represent the administration viewpoint.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. COTTON. What the Senator has said is, of course, completely correct. There was some slight reduction of the amount. It is hardly the kind of reduction that would be made if the purpose was to get a bill through the Congress and signed by the President rather than have another veto and the passage over the veto. Even though it was reduced, it is still twice what was called for by the Budget.

Those of us who have weathered the years in the Congress and in the political arena are not particularly surprised or shocked at the present warfare between the majority party in the Congress and the President. It is, of course, the declared intent of the majority party in the Congress to send back to the President every measure which he pocket vetoed last year. It is the undeclared but perfectly obvious intent to send those measures back to him in such form that he must veto them again. And so in this case the very sincere solicitude of the majority for the unfortunate and the handicapped is tainted somewhat by the fact that they want and must have another Presidential veto to override. The sting of defeat in a presidential election is easy to understand. Many times we on this side of the aisle have experienced it and have learned to live with it. But it does seem a little beneath the dignity of the Senate to load a bill so heavily that the real welfare of the handicapped may be jeopardized simply because they wish to humiliate the President of the United States.

We are never content to wade cautiously into new waters. We always must get on the springboard and plunge in.

When I was in college, I had a friend who used to run into the gym and get on the springboard and plunge into the pool. He failed to look the pool over one day when there was less than a foot of water in it, and he was in the hospital

with a fractured skull for the next 8 months.

One of these days, we are going to take one of these plunges and bypass appropriating committees, as we did on some bills last year to the tune of billions of dollars, and there will not be enough water in the pool. Then who is going to suffer? The handicapped are going to suffer; the environment is going to suffer; the fine causes that we are working for are going to suffer.

All that the Senator from New Hampshire has been appealing for is restraint and to work in such a manner as to accomplish the purpose, in the first place, of getting an authorization that can be somewhere nearly met by an appropriation and, second, to hit the target of the rehabilitation of the handicapped, without many extraneous programs and new agencies to be set up.

Mr. BENTSEN. Mr. President, I have recently joined as a cosponsor of S. 7, the Rehabilitation Act of 1973, legislation which expands and intensifies our efforts to rehabilitate the handicapped.

During the 52 years it has been in existence, this program has achieved a truly cooperative Federal-State partnership in serving and rehabilitating the handicapped.

Since the program began, more than 3 million handicapped individuals have been rehabilitated. Yet we have not finished our task.

Estimates vary as to the number of Americans who could benefit from rehabilitation services, but everyone agrees that there are many millions. We are only reaching a small percentage of them.

So the need to enlarge the scope of our rehabilitation programs is clear.

But today, with the many demands on our Federal dollar, the question quite naturally arises, "Can we afford it?"

Less than 2 weeks ago, on the Senate floor I said that Congress must demonstrate responsibility in holding down Government spending. I also said that within a limited budget, we must exercise our judgment as lawmakers concerning which programs deserve priority.

Mr. President, this is one of those programs.

I have supported the President in his efforts to hold down spending. The highway bill that I introduced contained some $500 million less than the measure that passed the Senate last year.

I voted against the Airport and Airways Development Act, for I believed that we had more important domestic priorities. And I supported the President's veto of that measure because I believe that it called for an unconscionable increase in spending for programs which could be deferred.

However, Mr. President, I cannot support the President on his veto of the Rehabilitation Act of 1972. This is not the place we should cut back when we are trying to control spending. It is not only bad public policy; it is bad economics.

We should ask ourselves what this legislation means to the individuals it touches as well as the taxpayers of this Nation.

To a paralyzed structural engineer in Washington, D.C., it has meant a chance to work supervising steel construction of churches, apartments, and schools.

To a former mental patient in New York, it has meant productive work as a compressor operator.

To a deaf printer in Iowa, it has meant a job in the composing room of a major newspaper.

And to a businessman paralyzed by polio, it has meant a chance to open his own business in Minnesota, hiring other handicapped workers.

These are not isolated cases. Statistical studies have shown that on purely economic grounds, rehabilitation services are one of the best investments that Government can make.

During fiscal 1971, Federal-State programs rehabilitated almost 300,000 Americans, enabling them to increase their incomes by some $750 million.

Of course, this increased income was accompanied by a corresponding, significant increase in the taxes these handicapped Americans were able to pay, and a corresponding decrease in their dependency on public assistance.

The Rehabilitation Act of 1973 provides services for individuals suffering from a wide range of handicaps: The deaf, the blind, the mentally retarded, the mentally ill, and those stricken by crippling diseases such as cerebral palsy.

Part of the effort is directed to training for work those whose handicap is, in reality, no handicap at all in certain occupations. The deaf, for example, are not disturbed by working in the noisy atmosphere of a newspaper room. They may be more qualified than their colleagues who have no handicap at all.

And we should also note that one of the major thrusts of this legislation is in research, so that we can prevent the occurrence of some of these disabling illnesses that have exacted such severe suffering and hardship from our people.

I believe that the human considerations are of primary importance in passing this legislation. Quite apart from the question of economics, the point remains that it is the right and necessary action for our society to help every man develop to his full potential. We have always been a compassionate society, and this is compassionate legislation.

I urge a strong vote of confidence on this bill so that the President will know that this Congress attaches the very highest priority to vocational rehabilitation.

Mr. BUCKLEY. Mr. President, the Senate must come to grips with its fiscal responsibilities. Last October this body formally concluded that it would be irresponsible to spend more than $250 billion during the current fiscal year Yet at the same time, we appropriate more than $265 billion, and we are now complaining, because the President is trying to hold the line and avert a new round of inflation.

Mr. President, as a matter of general policy I propose to vote against appropriations which exceed budgetary requests by so wide a margin as the bill now under consideration, regardless of how praiseworthy the purpose.

Mr. WILLIAMS. Mr. President, I am pleased to join with the Committee on Labor and Public Welfare in bringing to the Senate floor today, S. 7, the Rehabilitation Act of 1972. I point out to my colleagues that this bill is similar to H.R. 8395, the bill which was pocket vetoed by the President. The changes made by the committee are in authorizations levels for the fiscal years 1973, 1974, 1975, and the addition of a fiscal year 1976 authorization for all programs except for title I, the basic rehabilitation program.

I further point out, Mr. President, that this is the first legislation which the Subcommittee on the Handicapped dealt with after its creation last year, and I commend the tireless efforts of that subcommittee and all of its members in pursuing the rights of handicapped individuals at the cost of great time to their schedules.

I believe that we are all well aware of the history of this legislation, and I will only describe in brief the action of the 92d Congress and action in this Congress which was necessitated by the President's veto on October 27, 1972.

H.R. 8395 as passed by both Houses of the Congress had overwhelming support from constituency groups and from the Congress; it had been wrought in truly bipartisan fashion, and encompassed the sincere intent on the part of both House and Senate committees and the entire Congress that handicapped individuals be provided with comprehensive and individualized rehabilitation services which would enable them to better compete and live in our highly technical society. I believe we can say that H.R. 8395 had been given an examination of a magnitude never before devoted to rehabilitation legislation. The subcommittee and its staff spent long hours in consultation with groups interested and concerned about delivery of rehabilitation services at all levels and had left no stone unturned, and no need unmet.

The changes which resulted from this process promise to alter rehabilitation services in this Nation for many years to come. The more significant of these provisions may be summarized as follows:

Basic program: Title I of the bill places a clear priority on services to the severely handicapped, and provides procedural protections that ensure no individual is denied services unless a vocational goal is not possible for him. These procedural protections include the requirement for an individualized written program to be drawn for every eligible individual. It assures that such program will be reviewed annually and evaluated as to the success the agency has had in meeting the goals and objectives set down in the program. Other changes in basic program services include the provision of telecommunication, sensory and other technological aids and devices which would enable an individual to become employable.

Nonvocational services: Title II of the bill creates a new program, the intent of which is to provide services to enable those individuals unable to have a vocational goal at the present time to become more independent and self-reliant. The program would ensure that

the determination of a nonvocational goal would not exclude an individual entirely from services which would permit him to become more independent. This would allow for the possibility that the condition may change and, with the provision of independent living services, an individual may thereafter have a vocational goal.

Statutory Rehabilitation Services Administration: The bill establishes the Rehabilitation Services Administration as a statutory agency and creates within this agency a Division of Research, Training, and Evaluation and a Center for Technology Assessment and Application. This provision intends to insure that RSA be the primary agency responsible for the administration and policymaking for rehabilitation services. It also places clear authority for all research and training within RSA. Hearings on this legislation demonstrated a lack of coordinated efforts for research specifically related to rehabilitation. Thus, there is a clear need for policymaking in this area which puts primary emphasis on the rehabilitation needs of handicapped individuals rather than subordinating such decisions to social services decisionmaking.

Research and training: The bill, in coordination with the creation of a division of research training and evaluation, expands authority for research and training. It places particular emphasis on the need for technological research which would enable handicapped individuals to work more easily with their handicaps.

Evaluation: The bill responds also to the need for evaluation of program and research efforts to insure that these initiatives are meeting their intended and specified goals. Hearings demonstrated substantial need to evaluate the use of funding under the basic program and related research and training efforts in order to determine whether funds so invested were accomplishing the purposes for which they were intended.

Other provisions: During hearings on H.R. 8395, it became patently obvious that revision of the existing Federal-State programs for rehabilitation of handicapped individuals would not solve all of the problems for handicapped individuals particularly in terms of employment, ease of accessibility of services, and making full use of Federal programs which are available. Several additional provisions within H.R. 8395, and retained in S. 7, dealt directly with these problems. The bill provides for the creation of a Federal Interagency Committee on Employment of Handicapped Individuals made up of the Secretaries of appropriate Federal departments, which would call for and oversee the establishment of affirmative action policies in the hiring, placement, and advancement of handicapped individuals in Federal employment.

The bill also established an Architectural Barriers and Compliance Board to undertake compliance with existing Federal laws—including Public Law 90-480, the Architectural Barriers Act of 1968—which seek to eliminate barriers in buildings supported by the Federal Government.

In addition, the bill provides that contractors with the Federal Government must take affirmative action to employ handicapped individuals, and prohibits discrimination against handicapped individuals in any program or activity receiving Federal assistance.

Finally, the bill created an Office for the Handicapped in the Department of Health, Education, and Welfare, a proposal which I introduced, to coordinate Federal programs for the handicapped and the preparation of a 5-year planning document for the provision of comprehensive services for handicapped individuals.

There is no question that H.R. 8395 is the most comprehensive rehabilitation legislation ever passed by the Congress. S. 7 continues that thrust. The particular emphasis on delivery of services to the severely handicapped, the expansion of programs in areas to fill needs not now being served, the creation of a program to allow the States to extend their delivery of services to individuals who are without immediate vocational goals, and the strong emphasis on research in rehabilitation technology and engineering are forward-looking initiatives. They are programs which do not simply bridge gaps, but provide a coordinated and concerted effort to forestall and ameliorate handicapping conditions. They anticipate the day when all handicapped individuals may live and contribute easily and freely in this Nation.

While the Congress expressed its intent that this day come as soon as possible, the memorandum of disapproval by the President put an immediate stop to all such progress. He was unequivocal in his assertion that it would not be a priority of his administration.

Mr. President, my committee took seriously the criticisms made in the veto, and we sought to review our actions on this legislation. We took the time to review more than 1,700 pages of testimony. And we returned to each of the witnesses who had testified in the 92d Congress to request further justification and evaluation of the points made in the memorandum of disapproval. Supplemental statements from all of these witnesses are unanimous on, first, support and endorsement of the legislation as passed in the 92d Congress; second, the need for early action in light of the expiration of program authorizations on June 30, 1972; and third, rejection of the premises of the veto.

Furthermore, the committee has been more than patient. We waited until February 6 for the administration to testify, and waited further for administration amendments to be offered in committee. What was submitted to us in testimony was a restatement of the veto message. Yet the administration made clear in its testimony that the vocational rehabilitation program "is not only humanitarian, it is also cost effective." Citing their own statistics, we were told that while "one disabled individual may, during a lifetime, receive anywhere from $30,000 to $100,000 in public assistance payments, if he were not dependent, and had an average annual income of $8,000, the same individual in a family of four would pay taxes totaling $42,000 over his lifetime."

Mr. President, the administration and the Congress agree on the proposition that there should be a reduction of dependency. What we do not agree upon is the necessity to go forward, and the need to extend the vocational rehabilitation program to all individuals who are handicapped and who can benefit from services which the States have been providing for more than 50 years. We know presently that by conservative estimates there are from 7 to 12 million handicapped individuals who could benefit from rehabilitation services. Last year, the rehabilitation program served a little over 1 million of these individuals, and rehabilitated less than 300,000. I think it is clear that we need to increase this commitment.

In his memorandum of disapproval, President Nixon stated that it was his belief that "this measure would seriously jeopardize the goals of the vocational rehabilitation program" and was "another example of fiscal irresponsibility." He further stated that important new initiatives "would divert this program from its basic vocational objectives into activities that have no vocational element whatsoever or are essentially medical in character."

Yet, the authorizations contained in H.R. 8395 were not large expansions of authority for the vocational rehabilitation program. In most areas they were combined authorizations for what were previously separate programs and represent only modest increases in other areas. I point out, however, that in keeping with this criticism, the committee has cut back on authorizations for the fiscal year 1973 realizing the late date of authorizations, and has reduced the authorizations for fiscal years 1974 and 1975 in the areas of special projects, section 305; research, section 402; and training, section 403. The resulting reductions total more than $352 million from the overall authorization, and the actual authorization level for fiscal year 1973 is just slightly more than what was authorized in fiscal year 1972, despite the new initiatives which must be undertaken.

As to his criticism about the "diversion of the program from its vocational objective into activities that have no vocational element whatsoever," I presume that the President refers to title II, Comprehensive Rehabilitation Services. To begin with, this program is separate from the vocational rehabilitation program and has a separate authorization. But most important, unless we are willing to accept that many individuals' conditions are hopelessly static and that no progress can be made toward a vocational goal, the President's statement implies an inflexibility which is both heartless and unacceptable. There is no question that many individuals at the outset do not appear to have vocational goals. Yet, after the provision of independent living services and training, these individuals may be brought to a point where they can be readily accepted

in the basic vocational rehabilitation program. I, for one, am not willing to make a final judgment spelling no hope for any human being at any time. Nor am I willing to infer, as the President does, that individuals without an immediate vocational goal are not "deserving American citizens." In my view such an attitude violates his own objective of reducing dependency and it condemns too many individuals to helplessness and hopelessness.

The provisions which the President insists are "essentially medical in character" are the end-stage renal disease programs and the programs for services to the spinal cord injured. To treat these two programs as entirely medical violates the intent of the Congress in setting up these programs, and suggests that no other services are needed by individuals with spinal cord injury or end-stage renal disease. The truth is that these individuals are in need of retraining and rehabilitation in the vocational sense of the word, and often need the wide scope of comprehensive rehabilitation services. Second, these programs were included in H.R. 8395, to fill a need which can be met presently in no other way. I need only to cite the numbers of letters that I and all of my colleagues receive from kidney patients, who because of their disease have become totally dependent and disabled for lack of financial support and difficulties in finding suitable employment. I believe that these programs will more than pay for themselves in the long run, and provide services which are desperately needed.

Referring to the statutory creation of the Rehabilitation Services Administration, the President stated in his memorandum that this bill would also "create organizational rigidities which would undermine the ability of the Secretary of Health, Education, and Welfare to manage the program effectively." I see no such effect. In fact, the clear lines of authority will encourage more effective management of this program for the purposes for which it was intended by the Congress, and will insure that the program is not diverted from its primary purpose which is the provision of rehabilitation services, and the concomitant research and development needed to keep the program vibrant.

Finally, the President indicated that the bill would "establish numerous committees and independent commissions which are unnecessary, would waste the taxpayers' dollars, and would complicate and confuse the direction of this program." I presume here that the President refers to the Architectural Barriers Compliance Board, the Federal Interagency Committee for Employment, and the Office for the Handicapped. We must ask however: Which taxpayers? What dollars? And the direction of what program? Certainly, these committees have no direct relationship to the rehabilitation program for the purposes of delivery of vocational rehabilitation services to handicapped individuals and it is therefore difficult to understand how it will confuse the direction of the program. Second, I believe that it is time that we asked what the taxpayers' money is going for. The expenditure of money on programs which do not eliminate architectural barriers, and which do not provide substantial accomplishments in employment for handicapped individuals cannot be well spent. Nor can the expenditure of money in more than 50 programs for the handicapped which duplicate services, and organizational authority and leave large gaps in other areas be considered a wise expenditure of money. For those millions of handicapped individuals who pay taxes and have the right to expect that their tax money will go toward making their environment more accessible and their lives and employment easier, the creation of a compliance board and an affirmative action program provides appeals procedures and avenues of restitution which are greatly needed. For those other handicapped individuals who are well trained, or who have hopes of becoming trained so that their present dependence on tax revenues may be lessened, such proposals offer the possibility for action and effective utilization of their talents.

Mr. President, the delay which has resulted from the pocket veto of this bill has had a tragic effect on rehabilitation programs across the country. The simultaneous refusal to release money appropriated in the supplemental appropriations has slowed down many State programs, and has caused many rehabilitation facilities, workshops, and other programs to release clients because they were without funds for continued operations.

Mr. President, I am pleased to recommend this bill to my colleagues for it represents the efforts of a bipartisan group of Senators from the Labor and Public Welfare Committee, and many more friends of rehabilitation throughout the Senate and this Nation. I take this time to commend the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from New York (Mr. JAVITS), and their staffs for their long and tireless efforts on behalf of this legislation.

Mr. EAGLETON. Mr. President, it is with great pleasure that I join with my colleagues in support of the Rehabilitation Act of 1973. This legislation is the most substantial and significant advance in aid to the handicapped in half a century.

Vocational rehabilitation has been a most successful program since its inception in 1920. Over 3 million handicapped persons have been rehabilitated in those 50 years. But we have only begun to reach all those who need rehabilitation services. The Rehabilitation Act of 1973 will move the programs ahead at an even faster rate, and increasing numbers of handicapped persons can be rehabilitated and returned to employment.

In Missouri alone, 35,000 persons were served by the vocational rehabilitation agency during the last fiscal year, and almost 7,000 persons were rehabilitated and employed. That number can be increased significantly when the existing programs are strengthened and the new programs implemented as provided in this legislation.

I will not attempt to enumerate all the provisions which continue ongoing programs and establish new ones, but I would like to briefly touch on what I believe to be a most significant area of the bill and one of great interest to me. The new title II of the bill is designed to provide services for individuals so severely handicapped that a vocational goal for them is most likely out of the question. The new services and aid authorized would help these persons in maintaining an independent existence with less reliance upon attendants or institutionalization.

In this connection, I have long been concerned with the problems of older persons and the many difficulties relating to self-care and mobility they encounter. The new grant program in title II will make it possible to give the elderly necessary training and assistance, at minimal cost, so that they may be more self-sufficient and independent within their homes and communities.

Mr. President, as you know, late in the last Congress the Senate passed a measure almost identical to this bill which is before us now. Regrettably, it was pocket vetoed by the President. Congressional approval of this new version will give the President the opportunity to reconsider his decision. I hope that those anonymous power figures in OMB who counsel the President will find it in their hearts to recommend approval of this vitally needed legislation.

Finally, I would like to take this opportunity to pay tribute to the chairman of the Subcommittee on Handicapped Workers, Senator RANDOLPH, for his untiring efforts on behalf of the handicapped, as embodied in this bill, and to commend, as well, Senator CRANSTON, the ranking majority member, and Senator STAFFORD, the ranking minority member, for their contributions.

Mr. ROTH. Mr. President, I would like to say at the outset that I intend to vote for this legislation, principally because vocational rehabilitation programs have consistently, on the whole, proved their worth and their merit. These programs have helped thousands, perhaps millions, of Americans to become self-supporting, self-reliant individuals, dependent not upon the largess of others, but only upon their own diligence and pride.

I would like to add, however, that I have reservations regarding some provisions of this bill. Among other things, it establishes categorical grant programs which overlap with others now in existence; and, it removes the authority of the Secretary of Health, Education, and Welfare to coordinate the activities of his Department with regard to vocational rehabilitation. Indeed, that portion of the bill which deprives the Secretary of Health, Education, and Welfare of his authority seems to hearken back to the days when HEW was first established. Then, the Secretary of Health, Education, and Welfare was compelled by the Congress to answer for the performance of programs and agencies over which he had no authority and little control. I for one believe that we recognized the importance of consolidating authority and responsibility many years ago. To the degree that this bill undermines the

progress which Congress has made in this direction, I believe it is a mistake.

Despite these reservations, however, I will vote for this legislation so that we can at least take a step toward insuring the continued operations of vocational rehabilitation programs. I am also voting for this bill with the very real hope that the Members of the House will take some action to insure that the vocational rehabilitation bill finally presented to the President will be one which the President feels he can, in good conscience, sign. I regret that the Senate failed to do so. To intentionally present the President with legislation which Members know in advance will be totally unacceptable is, I believe, a disservice to the thousands of vocational rehabilitation clients. Such action will only result in needlessly delaying legislation and cruelly disappointing the many disabled persons who look to these programs with such great hope. To sacrifice the hopes of these people for the sake of partisan considerations is a disservice, not a service.

Our responsibility as Members of the House and the Senate is to the people of the United States, not to our parties, and I urge the responsible committees to recognize these obligations and make a genuine effort to come to a meeting of the minds with the President.

Mr. ROBERT C. BYRD. Mr. President, I want to express my strong support for S. 7, the Rehabilitation Act of 1972, which was reported by the Senate Labor Committee on February 26, 1973. I am particularly proud to support this legislation because the Subcommittee on the Handicapped of the Senate Labor Committee, is chaired by my colleague, Senator RANDOLPH. I want to congratulate him, and the other members of the committee for developing and reporting this legislation.

This bill, when enacted, will be filling one of the most vital and humanitarian needs in the country today—that of helping the handicapped to become more sufficient. During the extensive hearings which were held by the subcommittee, prior to reporting this legislation, it was brought out in testimony that there are from 7 to 12 million handicapped individuals in this country, the exact number depending upon what precise definition is utilized in characterizing an individual as handicapped. Regardless of the number or definition which is accepted as accurate, it is definitely known that last year rehabilitation agencies only reached slightly more than 1 million persons, of which 325,000 would be classified as having severe handicaps.

This legislation will also fill a need within the handicapped community, in that while it is designed to provide more services to all handicapped, it, at the same time, gives a definite priority to those who are the most severely handicapped and thus are in greater need for these services. While S. 7 will continue and expand existing services to handicapped individuals, it also makes sufficient expansion of funding and legislative authorization to insure that full services are extended to all handicapped individuals. The comprehensive services authorized in this bill will enable those for whom a vocational goal is impossible to at least be assisted in learning to live more independently. It also attempts to insure that no individual may be excluded from vocational training, counseling or any related rehabilitation service without a thorough and detailed evaluation of his rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he has concluded, beyond a reasonable doubt, that a vocational goal is not appropriate for the excluded individual.

Besides offering greater services to handicapped individuals, this legislation places greater emphasis on research and training of personnel to work with the handicapped and on the development of innovative rehabilitation techniques, equipment, and devices to both ameliorate the effects of being handicapped and to help make the handicapped more employable. It also attempts to target certain handicapped groups such as individuals with spinal cord injuries, and deaf-blind and older blind individuals, for whom services are presently inadequate.

For every individual successfully rehabilitated under this program, there will be a concomitant decrease in the numbers who are now dependent upon State, Federal, and private relief. Many handicapped individuals will not only go off the relief rolls but they will also be filing Federal tax returns on their earnings and paying taxes. I consider any funds spent on these programs to be investments which will provide a monetary return and a humanitarian return by helping others to regain some independence and self-respect.

Except for several minor changes, S. 7 is almost identical to H.R. 8395 which was passed by the Congress last year and vetoed by the President.

Last year, prior to the enactment of H.R. 8395, I offered two amendments to the appropriations bill for the Department of Health, Education, and Welfare, both dealing with handicapped persons. One amendment proposed $58,900,000 for special educational assistance for the handicapped. The Senate bill included $48 million for this item, and I was pleased to retain $31,659,000 of that amount in conference. However, the appropriations bill was subsequently vetoed by the President. My other amendment proposed $20 million for grants to the States to construct rehabilitation facilities. The Senate bill included the full $20 million; however, this item was deleted in conference since the authorization had not been enacted. If S. 7 is enacted into law, I shall continue to endeavor to obtain additional funds for the important programs authorized by this bill.

I congratulate the committee for coming forth with another strong and comprehensive bill. This bill has received tremendous bipartisan support within the Congress and from most of the organizations representing, or working with, the handicapped. The goal of federally sponsored vocational rehabilitation programs, since their inception in 1920, has been to provide vocational rehabilitative services to individuals in order that they might seek and maintain gainful employment. This bill can accomplish that goal and, in addition, by providing equal emphasis on research and development in this field, it will insure that the best knowledge, technology, and scientific research can be brought to bear on the problems of the handicapped in order that their disabilities will no longer block their potential for a productive and self-supporting life.

Mr. RANDOLPH. Mr. President, as I understand, we are ready for a vote on final passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question 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? 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. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Texas (Mr. TOWER) is absent on official business.

The Senator from Nebraska (Mr. CURTIS) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 86, nays 2, as follows:

[No. 27 Leg.]

YEAS—86

Abourezk	Fong	Gurney
Aiken	Byrd, Robert C.	Hansen
Allen	Cannon	Hart
Baker	Case	Hartke
Bartlett	Chiles	Haskell
Bayh	Church	Hatfield
Beall	Cook	Hahaway
Bellmon	Cotton	Helms
Bennett	Cranston	Hollings
Bentsen	Dole	Hruska
Bible	Domenici	Huddleston
Biden	Dominick	Hughes
Brock	Eagleton	Inouye
Brooke	Eastland	Jackson
Burdick	Ervin	Javits
Byrd, Harry F., Jr.	Fannin	Johnston
	Griffin	Kennedy

Long	Muskie	Sparkman
Magnuson	Nelson	Stafford
Mansfield	Nunn	Stevens
McClellan	Packwood	Stevenson
McClure	Pearson	Symington
McGee	Pell	Taft
McGovern	Proxmire	Talmadge
McIntyre	Randolph	Thurmond
Metcalf	Ribicoff	Tunney
Mondale	Roth	Weicker
Montoya	Schweiker	Williams
Moss	Scott, Pa.	Young

NAYS—2

Buckley	Scott, Va.

NOT VOTING—12

Clark	Gravel	Percy
Curtis	Humphrey	Saxbe
Fulbright	Mathias	Stennis
Goldwater	Pastore	Tower

So the bill (S. 7) was passed, as follows:

S. 7

An Act to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act with the following table of contents, may be cited as the "Rehabilitation Act of 1972".

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Sec. 706. Appropriations for fiscal year 1973.

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, to establish within the Department of Health, Education, and Welfare an Office for the Handicapped, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) develop, implement, and provide comprehensive rehabilitation services to meet the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound and institutionalized) who have been underserved in the past;

(7) direct the conduct of various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing housing and transportation barriers impeding handicapped individuals.

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There shall be in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be administered by a Commissioner (hereinafter referred to as the "Commissioner"). The Commissioner shall carry out and administer all programs and direct the performance of all services for which authority is provided under titles I through IV of this Act.

(b) There shall be within such Administration a Division of Research, Training, and Evaluation, which shall be responsible for carrying out programs and projects under title IV of this Act. There shall be within such Division a Center for Technology Assessment and Application, which shall be responsible for developing and supporting, and stimulating the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and for administration of the activities described in section 402(b)(2). Such Division shall be directed by an Assistant Commissioner, who shall be responsible to the Commissioner and shall be a person of outstanding scientific and technological achievement and learning and shall carry out his responsibilities in consultation with the National Science Foundation and the National Academy of Sciences, and shall be assigned at least ten full-time positions, five of which shall be filled by professionals of qualifications similar to the Assistant Commissioner.

(c) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

(d) In order to carry out the purposes of this Act—

(1) the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the Rehabilitation Services Administration, is increased by ten, and

(2) the authorized level of full-time personnel, or the equivalent, assigned to the Rehabilitation Services Administration to carry out duties related to the administration of this Act, is increased by sixty.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the

fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101 (a) of this Act and its program for persons with developmental disabilities under the Developmental Disabilities Services and Facilities Construction Amendments of 1970: *Provided*, That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. If the Secretary finds that all such requirements are satisfied, he may approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or he may advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 101 of this Act.

DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "comprehensive rehabilitation services" means vocational rehabilitation services and any other goods (including aids and devices) or services provided with funds under titles II, III, or IV of this Act that will make a substantial contribution in helping a handicapped individual to improve his ability to live independently or function normally with his family and community.

(2) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(3) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(4) The term "establishment of a rehabilitation facility" means, the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Commissioner may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(5) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational or comprehensive services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services or comprehensive rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services or the provision of comprehensive rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(6) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I and title II of this Act and as specifically set forth in section 301: *Provided*, That with respect to payments pursuant to part B of title I of this Act to any State which are not used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301 (b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Commissioner shall by regulation prescribe, be regarded as expenditures by such State.

(7) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit from vocational rehabilitation services, or comprehensive rehabilitation services provided pursuant to title II, III, or IV of this Act.

(8) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational or comprehensive rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(9) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501 (c)(3) of the Internal Revenue Code of 1954.

(10) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(11) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation or comprehensive rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational and comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabili-

ties, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(12) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(13) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders, (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, and any other disability specified by the Commissioner in regulations he shall prescribe.

(14) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(15) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

ALLOTMENT PERCENTAGE

SEC. 8. (a)(1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Commissioner between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

AUDIT

SEC. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

NONDUPLICATION

SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101 or for the purposes of providing comprehensive rehabilitation services pursuant to title II of this Act, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act.

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b)(1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated 800,000,000 for the fiscal year ending June 30, 1973, and $975,000,000 each for the fiscal year ending June 30, 1974, and the succeeding fiscal year.

(2) For the purpose of making grants under section 120, relating to grants to States and public and nonprofit agencies to assist them in meeting the costs of projects to initiate or expand services to handicapped individuals (especially those with the most severe handicaps) there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year.

STATE PLANS

SEC. 101. (a) For each fiscal year in which a State desires to participate in programs under this title and pursuant to title II of this Act, a State shall submit to the Commissioner for his approval an annual plan for vocational and comprehensive rehabilitation services which shall—

(1)(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational and comprehensive rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (i) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of the State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subclause (A) of this clause) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1)(B)(i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B)(i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1)(B)(ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind to one organizational unit of such agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Commissioner may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5)(A) contain the plans, policies, and

methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and show the order to be followed in selecting individuals to whom comprehensive rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Commissioner, and

(B) provide satisfactory assurances to the Commissioner that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) (A) contain the plans, policies, and methods to be followed in providing comprehensive rehabilitation services pursuant to title II of this Act, and

(B) provide satisfactory assurances that no such comprehensive rehabilitation services shall be paid for with funds under title II of this Act unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services;

(7) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Commissioner to be necessary for the proper and efficient administration of the plan;

(8) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational and comprehensive rehabilitation services, but the Commissioner shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provisions;

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(10) provide that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for vocational or comprehensive rehabilitation services under this Act, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this title or pursuant to title II of this Act and are determined not to be eligible therefor, the reasons for such determinations;

(11) provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (10) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Commissioner may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(12) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals;

(13) provide satisfactory assurances to the Commissioner that, in the provision of vocational rehabilitation and comprehensive rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(14) (A) provide that vocational rehabilitation and comprehensive rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons; and

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(15) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(16) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;

(17) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(18) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 313 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction;

(19) provide satisfactory assurances to the Commissioner that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational or comprehensive rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational comprehensive rehabilitation services; and

(20) provide satisfactory assurances to the Commissioner that the continuing studies required under clause (16) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Commissioner may require, of appropriate amendments to the plan.

(b) The Commissioner shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Commissioner shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

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

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Commissioner's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Commissioner shall insure that the individualized written rehabil-

itation program required by section 101(a)(10) in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and renegotiate its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational or comprehensive rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 112.

(c) The Commissioner shall also insure that (1) in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal, and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, and placement services for handicapped individuals, including follow-up, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title or title II of this Act unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for the deaf, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunications, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, alone or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual.

NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 105. For the purpose of determining the amount of payments to States for carrying out part B of this title, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a) For each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under subsection (b)(1) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under section 100(b)(1), or $2,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

SEC. 111. (a) From each State's allotment under this part for any fiscal year, the Commissioner shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (18) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Commissioner may find necessary.

(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was

greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installents as the Commissioner may determine.

CLIENT ASSISTANCE

SEC. 112. (a) The Commissioner shall set aside out of funds appropriated under section 305 for special projects and demonstrations up to $2,500,000 but no less than $1,000,000 for the fiscal year ending on June 30, 1973, and up to $5,000,000 but no less than $1,000,000 each for the three succeeding fiscal years to establish in no less than 10 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "project") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and to assist them in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Commission shall prescribe regulations which shall include the following requirements:

(1) All employees of such projects shall not be presently serving as staff, consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program or facility.

(2) The staff of such projects shall be afforded reasonable access to policy-making and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Commissioner on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Commissioner, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by the State agency designated pursuant to section 101.

PART C—INNOVATION AND EXPANSION GRANTS

STATE ALLOTMENTS

SEC. 120. (a) From the sums available pursuant to section 100(b)(2) for any fiscal year for grants to States to assist them in meeting the costs described in section 121, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 (or such other amount as may be specified as a minimum allotment in the Act appropriating such sums for such year) shall be increased to that amount, and for the fiscal years ending June 30, 1973, and June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

SEC. 121. (a) From each State's allotment under this part for any fiscal year, the Commissioner shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Commissioner may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Commissioner. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending June 30, 1976. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Commissioner, and shall be made on such conditions as the Commissioner finds necessary to carry out the purposes of this section.

TITLE II—COMPREHENSIVE REHABILITATION SERVICES

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 200. (a) The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I of this Act) to assist the several States in developing and implementing continuing plans for meeting the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible, including the assessment of disability and rehabilitation potential, and for the training of specialized personnel needed for the provision of services to such individuals and research related thereto.

(b) In order to make grants to carry out the purposes of this title, there is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $80,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year.

STATE ALLOTMENTS

SEC. 201. (a) From sums appropriated to carry out the provisions of this title for each fiscal year, less the amounts reserved by the Commissioner for projects under section 204, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the product of (1) the population of the State, and (2) its allotment percentage bears to the sum of the corresponding products for all of the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $150,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States to the extent he determines such other State will be able to use additional amounts during such year for carrying out such purpose. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purpose of this title, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

(c) In the fiscal year ending June 30, 1973, and in any subsequent fiscal year for which appropriations pursuant to this section do not exceed $20,000,000, the Commissioner, subsections (a) and (b) of this section and section 202(a) to the contrary notwithstanding and subject to the provisions of section 313, shall carry out the purposes of this title by making grants to States and public or nonprofit organizations and agencies to pay the Federal share of the expenditures for such projects. Projects receiving such grants shall be carried out under the State plan approved under section 101 (except for the priorities in the order of selection required by section 101(a)(5)(A)) in a manner consistent with the State program submitted under section 203.

PAYMENTS TO STATES

SEC. 202. (a) From each State's allotment under this title for the fiscal year ending June 30, 1973, and in any subsequent fiscal year, the Commissioner shall pay to such State the Federal share of the expenditures incurred during such year under its State program submitted under section 203 and approved as part of the State plan approved under section 101. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

(b) The Federal share with respect to any State shall be 90 per centum of the expenditures incurred by the State during such year under the State programs submitted under section 203 and approved as part of the State plan under section 101.

STATE PROGRAMS

SEC. 203. As a condition for receiving grants under this Act for the fiscal year ending June 30, 1974, a State must submit within one hundred and eighty days after the date of enactment of this Act an amendment to its plan submitted to the Commissioner under section 101 or to the Secretary under section 5 of the Vocational Rehabilitation Act which includes a program for provision of comprehensive rehabilitation services to bring about the rehabilitation of handicapped individuals under this title. A State shall also include such a program in its plan under section 101 submitted for each subsequent fiscal year. Such program, in addition to those requirements provided in section 101(a)(6), shall (1) designate the State agency or agencies administering the State plan for vocational rehabilitation as the agency or agencies to administer funds provided under this title; (2) provide that comprehensive rehabilitation services will be provided for the rehabilitation of handicapped individuals only in accordance with the individualized written rehabilitation program required by section 102 and only after the requirements of subsection (c) of such section have been met; (3) describe the quality, scope, and extent of the services being provided; (4) demonstrate that the State has studied and considered a broad variety of means for providing comprehensive rehabilitation services under this title, including but not limited to, regional and community centers, halfway houses, services to homebound and institutionalized individuals, and patient-release programs, where such programs are appropriate and beneficial; (5) be approved or disapproved under the criteria and procedures provided with respect to the State plan submitted under section 101; and (6) conform to such other requirements as the Commissioner by regulation may prescribe.

SPECIAL PROJECTS

SEC. 204. From sums appropriated under section 200(b), the Commissioner may retain not to exceed 10 per centum or $500,000, whichever is smaller, to enable him to make grants to States and public and nonprofit agencies or organizations to pay part of the cost of projects for research and demonstration and training which hold promise of making a substantial contribution to the solution of problems related to the rehabilitation of individuals under this title.

DEFINITION

SEC. 205. For the purposes of this title, the term "rehabilitation" means the goal of achieving, through the provision of comprehensive rehabilitation services, substantial improvement in the ability to live independently or function normally with his family or community on the part of a handicapped individual, who, according to a certification under section 102(c), is not then capable of achieving a vocational goal.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to—

(1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities;

(2) authorize grants and contracts to assist in the provision of vocational training services to handicapped individuals;

(3) to insure mortgages covering the construction of certain nonprofit rehabilitation facilities and authorize annual interest grants to help meet the costs of making principal payments in connection with such mortgages, whether so insured or not;

(4) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, which experiment with new types or patterns of services or devices for the rehabilitation of handicapped individuals (including opportunities for new careers for handicapped individuals and for other individuals in programs serving handicapped individuals) and which provide vocational and comprehensive rehabilitation services to handicapped migratory agricultural workers or seasonal farmworkers;

(5) establish and operate a National Center for Deaf-Blind Youths and Adults;

(6) authorize grants and contracts to establish and operate Rehabilitation Centers for Deaf Individuals;

(7) establish and operate National Centers for Spinal Cord Injuries;

(8) provide services for the treatment of individuals suffering from end stage renal disease;

(9) authorize grants and contracts to assist in the provision of rehabilitation services to older blind individuals and in the application of new types or patterns of services or devices for the benefit of such individuals;

(10) establish a National Advisory Council on Rehabilitation of Handicapped Individuals to advise the Commissioner and Secretary and conduct reviews with respect to programs carried out under this Act;

(11) establish State Advisory Councils to advise Governors and State agencies in carrying out State plans approved under this Act; and

(12) establish uniform grant and contact requirements for programs assisted under this title and certain other provisions of this Act.

GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated $17,500,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $45,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1978.

(b)(1) The Commissioner is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Commissioner under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 313.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subparagraph (b)(2) of section 645 of such Act (42 U.S.C. 291o (b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Commissioner is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Commissioner shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Commissioner is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year.

(b)(1) The Commissioner is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2)(A) Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is

less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Commissioner, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Commissioner may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 101 (a) (1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purpose of this subsection.

(c) (1) The Commissioner is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of urgently needed facilities for programs for handicapped individuals.

(b) For the purpose of this section the terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The commissioner, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 313, is authorized to insure up to 100 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(d) In order to carry out the purpose of this section, the Commissioner is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Commissioner, who demonstrates ability successfully to operate one or more programs for handicapped individuals. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Commissioner may make such contracts with and acquire for not to exceed $100 such stock of interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section), and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Commissioner under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed, but not including any cost covered by grants in aid under this Act or any other Federal Act.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Commissioner shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Commissioner finds necessary to meet the mortgage market.

(e) The Commissioner shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Commissioner is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Commissioner may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall by regulation prescribe.

(g) (1) The Commissioner shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. The Commissioner may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section and section 304 of this Act in accordance with such delegation agreement.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund (established by subsection (h) of this section) and all references in such provisions to "Secretary" shall be deemed to refer to the Commissioner of the Rehabilitation Services Administration within the Department of Health, Education, and Welfare.

(h) (1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Commissioner as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Rehabilitation Services Administration relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Rehabilitation Services Administration with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Commissioner may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Commissioner in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligations of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $250,000,000.

ANNUAL INTEREST GRANTS FOR MORTGAGES FOR REHABILITATION FACILITIES

SEC. 304. (a) To assist State and public or nonprofit agencies and organizations to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities, the Commissioner, subject to the provisions of section 313, may make annual interest grants to such agencies.

(b) Annual interest grants under this section with respect to any rehabilitation 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 sufficient to reduce by 4 per centum the net effective interest rate otherwise payable on the loan or to equal one-half of such rate, whichever is the lesser amount: *Provided*, That the amount on which such grant is based shall be approved by the Commissioner.

(c) (1) There are authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into an aggregate amount greater than is author-

ized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid pursuant to contracts entered into under this section shall not exceed $1,000,000 with respect to contracts entered into prior to June 30, 1973; $2,000,000 with respect to contracts entered into prior to June 30, 1974; and $4,000,000 with respect to contracts entered into prior to June 30, 1975.

(3) Not more than 15 per centum of the funds expended under this section may be used within any one State in any one fiscal year.

SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 305. (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $150,000,000 for the succeeding fiscal year.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 10 per centum, but in no event more than $5,000,000 in the fiscal year ending June 30, 1973, and $10,000,000 in each such subsequent fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under subsection, an amount of $5,000,000 to be available for the fiscal year ending June 30, 1973, and $10,000,000 for each such subsequent fiscal year.

(b) The Commissioner, subject to the provisions of section 313, shall make grants to States and public or nonprofit agencies and organizations for paying part of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing facilities and providing services which, in the judgment of the Commissioner, hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially those with the most severe handicaps, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals and for other individuals in programs servicing handicapped individuals).

(c) The Commissioner, subject to the provisions of section 313, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational or comprehensive rehabilitation services to handicapped individuals who, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Commissioner is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Commissioner) as may be necessary for such individuals to continue to engage in such employment.

(e) (1) The Commissioner is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance (A) to rehabilitation facilities, and (B) for the purpose of removal of architectural and transportation barriers, to any public or nonprofit agency, institution, organization or facility.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Commissioner, but not exceeding the pro rata pay rate for a person employed as a GS–18, under section 5332 of title 5, United States Code, 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.

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 306. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated $5,000,000 for construction, which shall remain available until expended, and $800,000 for operations for the fiscal year ending June 30, 1973; $1,200,000 for operations for the fiscal year ending June 30, 1974; and $2,000,000 each for operations for the fiscal year ending June 30, 1975, and the succeeding fiscal year.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specially designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Commissioner, subject to the provisions of section 313, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults.

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Commissioner. In considering such proposals the Commissioner shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

REHABILITATION CENTERS FOR DEAF INDIVIDUALS

SEC. 307. (a) For the purpose of making grants and contracts for the expansion and improvement of vocational or comprehensive rehabilitation services for deaf individuals (through the establishment of centers or other means), there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; and $7,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year. Funds appropriated pursuant to this subsection shall remain available until expended.

(b) In order to—

(1) demonstrate methods of (A) providing the specialized services needed to rehabilitate and make maximum use of the vocational potential of deaf individuals, and (B) training the specialized professional and allied personnel required adequately to staff facilities designed to provide such services and training personnel who have been or will be working with such individuals;

(2) conduct research in the nature and prevention of the problems of such deaf individuals and in the rehabilitation of these individuals; and

(3) improve the understanding of the general public, employers in particular, of both the assets and problems of such deaf individuals;

the Commissioner, subject to the provisions of section 313, is authorized to make grants to or contracts with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of one or more centers for the vocational rehabilitation of deaf individuals whose maximum vocational potential has not been achieved, which shall be known as Rehabilitation Centers for Deaf Individuals.

(c) Any agency or organization desiring to receive a grant or enter into a contract under this section shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Commissioner. In considering such proposals the Commissioner shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of a Rehabilitation Center for Deaf Individuals, and (2) give promise of offering the substantial capability in providing a broad program of service and related research, training, and other activities in the field of rehabilitation of deaf individuals whose maximum vocational potential has not been achieved.

(d) For the purposes of this section, the Commissioner shall prescribe regulations to—

(1) provide a means of determining the population of deaf individuals whose maximum vocational potential has not been achieved;

(2) insure that, in carrying out the purposes of this section, provision has been made for coordination between the agency or organization receiving funds under this section on the one hand, and the State and local educational agencies in the area to be served on the other; and

(3) provide that an advisory board, comprised of qualified professional and expert individuals in the fields of rehabilitation and education of deaf individuals, be appointed to assure proper functioning of a Center es-

tablished under this section in accordance with its stated objectives and to provide assistance in professional, technical, and other related areas; and that at least one-third of the members of such board shall be deaf individuals.

(e) To be eligible to receive vocational or comprehensive rehabilitation services under this section, a deaf individual must be sixteen years of age or older, must have reached the age at which the compulsory school attendance laws of the State in which he resides are no longer applicable to him, and must be an individual whose maximum vocational potential (as defined in regulations which the Commissioner shall prescribe) has not been achieved.

(f) Programs carried out under this section shall be coordinated with programs carried out by the Bureau of Education for the Handicapped within the Office of Education in order to achieve a consistent education and rehabilitation philosophy, to provide for continuity of services and program purpose, and to avoid unnecessary duplication or overlap of programs.

NATIONAL CENTERS FOR SPINAL CORD INJURIES

SEC. 308. (a) For the purpose of establishing and operating National Centers for Spinal Cord Injuries, there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year. Funds appropriated under this section shall remain available until expended.

(b) In order—

(1) to help establish national centers with special competencies in providing prompt, complete vocational and comprehensive rehabilitation services and acute medical care to individuals with spinal cord injuries;

(2) to assist in meeting the costs of such services to such individuals;

(3) to encourage and assist the study and development of methods for the provision of such services and, where appropriate and desirable, to carry out necessary related research and training; and

(4) to develop new methods of achieving cooperation with and among community and other public and nonprofit organizations concerned with the problems of spinal cord injury;

the Commissioner, subject to the provisions of section 313, is authorized to enter into an agreement with any public or nonprofit agency or organization to pay all or part of the costs of the establishment and operation, including construction and equipment, of centers to carry out the purposes of this subsection, which centers shall be known as National Centers for Spinal Cord Injuries.

(c) Any agency or organization desiring to enter into such an agreement shall submit a proposal therefore at such time, in such manner, and containing such information as may be prescribed in regulations by the Commissioner. In considering such proposals the Commissioner shall provide an opportunity for submission of comments by the State agency administering the State plan under section 101, and shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of National Centers for Spinal Cord Injuries, and which include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and comprehensive rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries including, but not limited to, acute medical care and periodic inpatient or outpatient followup;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries;

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportion, recreation, employment, and community activities;

and (2) give promise of offering substantial skill, experience, and capability in providing a comprehensive program of services and related activities in the field of rehabilitation of individuals with spinal cord injuries.

GRANTS FOR SERVICES FOR END-STAGE RENAL DISEASE

SEC. 309. (a) For the purpose of providing services under this section for the treatment of individuals suffering from end-stage renal disease there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974; and $25,000,000 each for the fiscal year ending June 3, 1975, and the succeeding fiscal year. Funds appropriated under this subsection shall remain available until expended.

(b) From sums available pursuant to subsection (a) of this section for any fiscal year, the Commissioner shall make grants to States and public and nonprofit agencies and organizations and agencies for paying part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Commissioner, and shall be made on such conditions as the Commissioner finds necessary to carry out the purposes of this section.

REHABILITATION SERVICES FOR OLDER BLIND INDIVIDUALS

SEC. 310. (a) For the purpose of providing rehabilitation services to older blind individuals, there is authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 each for the fiscal year ending June 30, 1975, and the succeeding fiscal year.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, as well as other services, needed to rehabilitate older blind individuals, and (B) training the professional and allied personnel needed to provide such services;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating older blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for, and help improve public understanding of, the problems of older blind individuals,

the Commissioner, subject to the provisions of section 313, is authorized to make grants to and contracts with States and public and nonprofit agencies to pay all or part of the costs of projects and demonstrations (1) for providing vocational or comprehensive rehabilitation services to older blind individuals which, in the judgment of the Commissioner, hold promise of expanding or otherwise improving such services, and (2) for applying new types or patterns of such services or devices to, or for the benefit of, older blind individuals.

(c) For the purpose of this section, the term "older blind individuals" means individuals, age fifty-five and older, whose severe visual impairment makes gainful employment less readily attainable in the light of current employment practices.

NATIONAL ADVISORY COUNCIL ON REHABILITATION OF HANDICAPPED INDIVIDUALS

SEC. 311. (a) There is established in the Department of Health, Education, and Welfare a National Advisory Council on Rehabilitation of Handicapped Individuals (hereinafter referred to in this section as the "Council") consisting of twenty members appointed by the Commissioners without regard to civil service laws shall be from among persons who are leaders in fields concerned with rehabilitation or in public affairs, and ten of such twenty shall be selected from among leading medical, educational, or scientific authorities with outstanding qualifications in the rehabilitation of handicapped individuals. Eight of such twenty members shall be persons who are themselves handicapped or who have received vocational rehabilitation services. Each such member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term and except that, of the members first appointed, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Commissioner at the time of appointment. None of such members shall be eligible for reappointment until a year has elapsed after the end of his preceding term. The Council shall meet not less than four times a year at the call of the Chairman, who shall be selected from among its membership by the members.

(b) The Council shall—

(1) provide policy advice and consultation to the Secretary and the Commissioner on the planning (including determinations of priorities), conduct, and review of programs (including research and training) authorized under this Act;

(2) review the administration and operation of vocational rehabilitation (including research and training) programs under this Act, including the effectiveness of such programs in meeting the purposes for which they are established and operated and the integration of research and training activities with service program goals and priorities, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the Secretary and the Commissioner for annual transmittal to the Congress;

(3) advise the Secretary and the Commissioner with respect to the conduct of independent evaluations of programs (including research and training) carried out under this Act; and

(4) provide such other advisory services as the Secretary and the Commissioner may request.

(c)(1) Adequate technical assistance and support staff for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or from any other Federal agency, as the Council may reasonably request.

(2) There is authorized to be appropriated for the purpose of carrying out this section $100,000 for the fiscal year ending June 30, 1973, and $150,000 for each for the three succeeding fiscal years.

(d) The Council shall review the possible duplication among vocational rehabilitation programs and other programs serving handicapped individuals within the same geographical areas and shall make annual reports of the extent to which unnecessary duplication or overlap exists, together with its findings and recommendations, concurrently to the Commissioner and the Congress. In making these reports, the Council shall seek the opinions of persons familiar with voca-

tional rehabilitation and the employment of persons who have received vocational and comprehensive rehabilitation services in each State as well as persons familiar with labor, business and industry, education and training, health, and manpower programs.

(e) Members of the Council, while attending meetings or conferences thereof, or otherwise serving on business of the Council, or at the request of the Commissioner, shall be entitled to receive compensation at rates fixed by the Commissioner, but not exceeding the daily pay rate for a person employed as a GS–18 under section 5332 of title 5, United States Code, 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.

STATE ADVISORY COUNCILS

SEC. 312. (a) For the purpose of establishing State Advisory Councils, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, and for each of the three succeeding fiscal years.

(b) Any State which receives assistance under this Act may establish and maintain a State Advisory Council, which shall be appointed by the Governor, or, in the case of a State in which members of the State board which governs vocational rehabilitation are elected (including election by the State legislature), by such board.

(c) (1) Such a State Advisory Council shall include as members persons who are familiar with problems of vocational rehabilitation in the State and the administration of vocational rehabilitation programs, and who are experienced in the education and training of handicapped individuals; persons who are representative of labor and management, including persons who have knowledge of the employment of persons who have received vocational rehabilitation services and of the employment of handicapped individuals; and individuals who are handicapped and who are receiving or who have received vocational rehabilitation services and who shall constitute a majority of the total membership of the State Advisory Council.

(2) Such a State Advisory Council, in accordance with regulations prescribed by the Commissioner shall—

(A) advise the Governor and the State agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 101;

(B) advise with respect to long-range planning and studies to evaluate vocational rehabilitation programs, services, and activities assisted under this Act; and

(C) prepare and submit to the Governor through the State agency having authority over vocational rehabilitation programs, and to the National Advisory Council on Rehabilitation of Handicapped Individuals established pursuant to section 311, an annual report of its recommendations, accompanied by such additional comments of the State agency as that agency deems appropriate.

(d) Upon the appointment of any such Advisory Council the appointing authority under subsection (b) of this section shall inform the Commissioner of the establishment of, and membership of, its State Advisory Council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b) (1) of this section.

(e) Each such State Advisory Council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (d) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State Advisory Council, except that such rules must provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning vocational rehabilitation.

(f) Each such State Advisory Council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 313. (a) The provisions of this section shall apply to all projects (including annual interest grants) approved and assisted under this title. The Commissioner shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under sections 302, 309, 311, and 312.

(b) To be approved, an application for assistance for a construction project under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided:

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which he shall summarize and comment upon in the annual report to the Congress submitted under section 504:

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Commissioner related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will 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 Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Commissioner shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this title. In case an amendment to an approval application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as 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) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Commissioner as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious workshop or any sectarian activity.

(h) When in any State, funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Commissioner shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

(j) With respect to any obligation issued by or on behalf of any public agency for which the issuer has elected to receive the benefits of mortgage insurance under section 303 or annual interest grants under section 304, the interest paid on such obligations and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

TITLE IV—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 400. The purpose of this title is to authorize Federal assistance to State and public or nonprofit agencies and organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 402 of this title, $45,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $150,000,000 for the succeeding fiscal year, of which 15 per centum in the fiscal year ending June 30, 1973, and 25 per centum in each such subsequent fiscal year, shall be available for the purpose of carrying out activities under section 402(b)(2).

(2) For the purpose of carrying out section 403 of this title $35,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the succeeding fiscal year.

(b) Funds appropriated under this title shall remain available until expended.

RESEARCH

SEC. 402. (a) The Commissioner is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and comprehensive rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

(b) In addition to carrying out projects under subsection (a) of this section, the Commissioner is authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with the Office for the Handicapped and State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research in support of the National Centers for Spinal Cord Injuries established pursuant to section 308 which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skills of rehabilitation personnel.

(c) The provisions of section 313 shall apply to assistance provided under this section, unless the context indicates to the contrary.

TRAINING

SEC. 403. (a) The Commissioner is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational and comprehensive rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in services to the blind and the deaf, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

REPORTS

SEC. 404. There shall be included in the annual report to the Congress required by section 504 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational or comprehensive rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

TITLE V—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

ADMINISTRATION

SEC. 500. (a) In carrying out his duties under this Act, the Commissioner shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational and comprehensive rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physcal therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to the rehabilitation of handicapped individuals; and

(3) disseminate information relating to vocational and comprehensive rehabilitation services, and otherwise promote the cause of the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles VI and VI of this Act, and to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations, as well as those prescribed by the Commissioner of the Rehabilitation Services Administration under titles I, II, III, and IV of this Act shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural, transportation, and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out their duties under this Act, the Secretary and the Commissioner, respectively, shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

(f) With respect to the administration of the program authorized by section 309, the Secretary shall insure that the provision of services under such section is coordinated with similar services provided or paid for under health programs pursuant to other Federal laws.

PROGRAM AND PROJECT EVALUATION

SEC. 501. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related

activities carried out under section 402, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of such section 402, whether and on what basis such activities should be continued, revised or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective after June 30, 1973, before funds for the programs and projects covered by this Act are released, the Secretary shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in subsections (b), (c), and (d) of section 101, whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 504 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 502. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. There is authorized to be appropriated such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, III, and IV of this Act or $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 for each such subsequent fiscal year, whichever is greater, to be available to conduct program and project evaluations as required by this title.

REPORTS

SEC. 504. Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail, vocational and comprehensive rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of comprehensive rehabilitation services, and (3) include a detailed evaluation of services provided with assistance under title I of this Act to those with the most severe handicaps and of comprehensive rehabilitation services provided pursuant to title II of this Act.

SHELTERED WORKSHOP STUDY

SEC. 505. (a) The Secretary shall conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within twenty-four months after the date of enactment of this Act.

TITLE VI—OFFICE FOR THE HANDICAPPED

ESTABLISHMENT OF OFFICE

SEC. 600. There is established within the Office of the Secretary in the Department of Health, Education, and Welfare an Office for the Handicapped (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director, who shall serve as a Special Assistant to the Secretary and shall report directly to him, and shall be provided such personnel as are necessary to carry out the functions set forth in section 601. In selecting personnel to fill all positions in the Office, the Secretary shall give special emphasis to qualified handicapped individuals.

FUNCTION OF OFFICE

SEC. 601. It shall be the function of the Office, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, to—

(1) prepare and submit to the Secretary, for submission to the Congress within 18 months after the date of enactment of this Act, a long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze on a continuing basis and submit to the Secretary, for inclusion in his report submitted under section 504, a report on the results of such analysis, program operation to determine consistency with applicable provisions of law, progress toward meeting the goals and priorities set forth in the projection required under clause (1), the effectiveness of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) encourage coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs under the jurisdiction of the Secretary;

(4) provide assistance (including staff assistance) to the National Advisory Council on Rehabilitation of the Handicapped established by section 311 of this Act, the National Advisory Council on the Education of the Handicapped established by section 604 of the Education of the Handicapped Act (title VI, Public Law 91-230), and other committees advising the Secretary on programs for handicapped individuals;

(5) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education (including promotion of the development of curriculums stressing barrier free design and the adoption of such curriculums by schools of architecture, design, and engineering), health, employment, rehabilitation, architectural and transportation barriers, and other areas so as to bring about the full integration of handicapped individuals into all aspects of society;

(6) provide a central clearinghouse for information and resource availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Office deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public; and

(7) carry out such additional advisory functions and responsibilities, consistent with the provisions of this title, as may be assigned to it by the Secretary or the President, except that such function or any other function carried out under clauses (1) through (5) of this section shall not include budgetary, policy, or program control by the Office over any program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There is authorized to be appropriated for the carrying out the purposes of this title, $1,000,000 for the fiscal year ending June 30, 1973, and $2,000,000 each for the three subsequent fiscal years, and there is further authorized to be appropriated $300,000 each for the fiscal year ending June 30, 1973, and for the three subsequent fiscal years for carrying out clause (6) of section 601.

TITLE VII—MISCELLANEOUS

EFFECT ON EXISTING LAWS

SEC. 700. The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1972. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractural

arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

FEDERAL INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

SEC. 701. (a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of the following (or their designees whose positions are Executive Level IV or *higher*): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, the Secretaries of Labor and Health, Education, and Welfare, and the heads of such other Federal departments and agencies as the President may designate. The Chairman of the President's Committee on Employment of the Handicapped and the Chairman of the President's Committee on Mental Retardation shall serve as ex officio members of the Interagency Committee, and the Secretary of Health, Education, and Welfare shall serve as Chairman, and the Chairman of the Civil Service Commission shall serve as Vice-Chairman, of the Committee. The resources of such President's Committees shall be made fully available to the Committee established pursuant to this section. The Commissioner shall serve as Executive Director of the Committee. It shall be the purpose and function of the Committee to insure, through the establishment of affirmative action programs, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals, by each department, agency, and instrumentality in the executive branch of Government, and that the special needs of such individuals are being met.

(b) Each department, agency, and instrumentality in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met.

(c) The Committee shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Committee shall, on June 30, 1973, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation or other appropriate action to insure the adequacy of such practices. Such report shall also include a description of the effectiveness of the Committee's activities under subsection (c) of this section.

(e) An individual who, as a part of his individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) There are authorized to be appropriated for salaries and expenses of the President's Committee on Employment of the Handicapped $1,000,000 for the fiscal year ending June 30, 1973, and $1,250,000 for the fiscal year ending June 30, 1974. In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals.

NATIONAL COMMISSION ON TRANSPORTATION AND HOUSING FOR HANDICAPPED INDIVIDUALS

SEC. 702. (a) There is established in the Department of Health, Education, and Welfare, a National Commission on Transportation and Housing for Handicapped Individuals, consisting of the Secretary of Health, Education, and Welfare (or his designee), who shall be Chairman, the Secretary of Housing and Urban Development, the Secretary of Transportation and the Secretary of the Treasury (or their respective designees), and not more than fifteen members appointed by the Secretary of Health, Education, and Welfare without regard to the civil service laws. The fifteen appointed members shall be representatives of the general public, of handicapped individuals, and of private and professional groups having an interest in, and able to contribute to the solution of, the transportation and housing problems which impede the rehabilitation of handicapped individuals.

(b) The Commission, in consultation with the Architectural and Transportation Barriers Compliance Board established pursuant to section 703, shall (1)(A) determine how and to what extent transportation barriers impede the mobility of handicapped individuals and aged handicapped individuals and consider ways in which travel expenses in connection with transportation to and from work for handicapped individuals can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of handicapped individuals; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems and (B) to make housing available and accessible to handicapped individuals or to meet sheltered housing needs; and (3) prepare plans and proposals for such further action as may be necessary to the goals of adequate transportation and housing for handicapped individuals, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

(c) The Commission is authorized to appoint such special advisory and technical experts and consultants, and to establish such committees, as may be useful in carrying out its functions, to make studies, and to contract for studies or demonstrations to assist it in performing its functions. The Secretary shall make available to the Commission such technical, administrative, and other assistance as it may require to carry out its functions.

(d) Appointed members of the Commission and special advisory and technical experts and consultants appointed pursuant to subsection (c) shall, while attending meetings or conferences thereof or otherwise serving on business of the Commission, be entitled to receive compensation at rates fixed by the Secretary, but exceeding the not daily pay rate, for a person employed as a GS–18 under section 5332 of title 5, United States Code, 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 such title 5 for persons in the Government service employed intermittently.

(e) The Commission shall prepare two final reports of its activities. One such report shall be on its activities in the field of transportation carriers of handicapped individuals, and the other such report shall be on its activities in the field of the housing needs of handicapped individuals. The Commission shall, prior to January 1, 1975, submit each such report, together with its recommendations for further carrying out the purposes of this section, to the Secretary for transmittal by him, together with his recommendations, to the President and the Congress. The Commission shall also prepare for such submission an interim report of its activities in each such field within eighteen months after the date of enactment of this Act and such additional interim reports as the Secretary may request.

(f) The Commission shall on a frequent and continuing basis, provide to the Architectural and Transportation Barriers Compliance Board established pursuant to section 703, such data and information as it has acquired or developed during the course of its investigations and studies and such reports as it has submitted under subsection (e) of this section. Such Board shall also provide to the Commission such data and information acquired by it as the Commission may reasonably request.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 703. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90–480), as amended by the Act of March 5, 1970 (Public Law 91–205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal,

State, and local governments and by other public or non-profit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make reports to the President and to Congress, which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection; and (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers in clause (2) of this subsection.

(c) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). The provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(d) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(e) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint, under the terms and conditions specified in subsection (d) of section 702, such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section.

(f) The Board shall, at the end of each fiscal year, report its activities during the preceding year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (4) and (5) of subsection (b) of this section.

(g) There is authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section $1,000,000 for the fiscal year ending June 30, 1973; $1,250,000 for the fiscal year ending June 30, 1974; and $1,500,000 for the fiscal year ending June 30, 1975.

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 704. (a) Any contract entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 7(7). The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 705. No otherwise qualified handicapped individual in the United States, as defined in section 7(7), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

APPROPRIATIONS FOR FISCAL YEAR 1973

SEC. 706. The paragraph entitled "Social and Rehabilitation Services" of chapter IV of the Supplemental Appropriations Act, 1973 (Public Law 92-607) is amended by striking out "section 103" and inserting in lieu thereof "section 110" each place it appears and striking out "section 104" and inserting in lieu thereof "section 120".

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS and Mr. CRANSTON moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE— ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has affixed his signature to the enrolled joint resolution (H.J. Res. 345) making further continuing appropriations for the fiscal year 1973, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. NUNN).

RURAL ENVIRONMENTAL ASSISTANCE AND WATER BANK PROGRAMS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 56, H.R. 2107, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill (H.R. 2107) by title, as follows:

A bill to require the Secretary of Agriculture to carry out a rural environmental assistance program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment, at the top of page 2, insert a new section, as follows:

SEC. 2. The first sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended by striking out the words "shall have authority to" and inserting in lieu thereof the following: "shall, to the full extent permitted by available appropriations therefor,".

Mr. MANSFIELD. Mr. President, discussion and debate on the pending measure will start tomorrow. There will be no further votes this evening, and we will be in session only if some Senators want to make statements.

So, pending that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the resumption of the transaction of routine morning business not to exceed 10 minutes, with statements limited therein to 5 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BELLMON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the remarks of Mr. MCGOVERN, the distinguished Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

ORDER THAT UNFINISHED BUSINESS BE LAID BEFORE THE SENATE AT CONCLUSION OF MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the routine morning business, the Chair lay before the Senate the unfinished business.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business not be laid before the Senate tomorrow until all of the orders for the recognition of Senators previously entered be consummated.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11 o'clock a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 10 minutes and in the order stated: Mr. WILLIAMS, Mr.

EASTLAND, Mr. MAGNUSON, Mr. MCCLELLAN, Mr. EAGLETON, Mr. SPARKMAN, Mr. RANDOLPH, Mr. JACKSON, Mr. CANNON, Mr. MOSS, Mr. HARTKE, Mr. MUSKIE, and Mr. CHURCH.

After the remarks of Mr. CHURCH, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. ROBERT C. BYRD, Mr. MCGOVERN, and Mr. BELLMON.

At the conclusion of the aforementioned orders for the recognition of Senators, there will 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 close of which the Senate will proceed to the consideration of the then unfinished business, Calendar Order No. 56, H.R. 2107, an act to require the Secretary of Agriculture to carry out a rural environmental assistance program.

I would anticipate one or more yea-and-nay votes in connection therewith.

There may be other business ready for action tomorrow.

At the close of business tomorrow, I would anticipate at this time that the Senate would go over until Monday next. However, that will depend on what is on the Calendar tomorrow.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. 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 11 a.m. tomorrow.

The motion was agreed to; and at 4:46 p.m. the Senate adjourned until tomorrow, Thursday, March 1, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 28, 1973:

DEPARTMENT OF STATE

Marshall Green, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia.

William B. Macomber, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

V. John Krehbiel, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

Dr. Ruth Lewis Farkas, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 28, 1973:

IN THE AIR FORCE

The following officer for confirmation of recess appointment to the grade of lieutenant general. He has been assigned to a position of importance and responsibility under subsection (a) of section 8066, title 10, United States Code:

To be lieutenant general

Lt. Gen. Robert E. Pursley, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Daniel McLaughlin, [redacted] U.S. Army.

Maj. Gen. George Samuel Blanchard, [redacted] (Army of the United States), brigadier general, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general

Maj. Gen. Willis Dale Crittenberger, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Major Gen. Jack Carter Fuson, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. William Edward Potts, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Frederic Ellis Davison, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Arthur Hamilton Sweeney, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Jack Alvin Albright, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Hugh Richard Higgins, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Sidney Michael Marks, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Albert Ernest Milloy, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. John Reiley Guthrie, [redacted] Army of the United States, (brigadier general, U.S. Army).

Lt. Gen. William Allen Knowlton, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Frank Ambler Camm, [redacted] Army of the United States, (brigadier general, U.S. Army).

Lt. Gen. Edward Michael Flanagan, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Lt. Gen. Bernard William Rogers, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. John Woodland Morris, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Allen Mitchell Burdett, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Howard Harrison Cooksey, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. CJ LeVan, [redacted] Army of the United States, (brigadier general, U.S. Army.)

Maj. Gen. John Quint Henion, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen John Holloway Cushman, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. David Ewing Ott, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. George Samuel Blanchard, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Harold Ira Hayward, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. John Joseph Hennessey, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. Frederick James Kroesen, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Gen. Alexander Meigs Haig, Jr., [redacted] Army of the United States, (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John Jarvis Tolson III, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section [redacted] in grade as follows:

To be lieutenant general

Maj. Gen. James George Kalergis, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Frederick James Clarke, [redacted] Army of the United States (major general, U.S. Army).

Lt. Gen. William Charles Gribble, Jr., [redacted] Army of the United States (major general, U.S. Army) for appointment as Chief of Engineers, U.S. Army, under the provisions of title 10, United States Code, section 3036.

The United States Army Reserve officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3384:

To be major general

Brig. Gen. Orville Kingsbury Fletcher, SSN [redacted]

Brig. Gen. Sterling Ralph Ryser, SSN [redacted]

To be brigadier general

Col. Pellegrino Philip Bavetta, SSN [redacted] Civil Affairs.

Col. Robert Lee Bradley, SSN [redacted] Medical Corps.

Col. James Keith Durham, SSN [redacted] Corps of Engineers.

Col. William Henry Ecker, Jr., SSN [redacted] Civil Affairs.

Col. Freeman Henry Forrest, SSN [redacted] Infantry.

Col. John William Francis, SSN [redacted] Infantry.

Col. Ladd Franklin Hunt, SSN [redacted] Military Police Corps.

Col. James Benjamin Middleton, SSN [redacted] Corps of Engineers.

Col. Henry Mohr, SSN [redacted] Field Artillery.

Col. Harry Stott Parmelee, SSN [redacted] Infantry.

Col. Lawrence Drew Redden, SSN [redacted] Field Artillery.

Col. Darel Roy Sievers, SSN [redacted] Military Police Corps.

Col. Jean Henry Trahin, SSN [redacted] Infantry.

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Robert Grant Moorhead, SSN [redacted]

To be brigadier general

Col. Henry Hammond Cobb, Jr., SSN [redacted] Infantry.

Col. Samuel Rufus Gay, Jr., SSN xxx-xx-xx... xxx-... Infantry.
Col. Trelawney Eston Marchant, Jr., SSN xxx-xx-xxxx Infantry.
Col. James Andrew Mickle, Jr., SSN xxx-... xxx-xx-x... Quartermaster Corps.
Col. Eugene Francis Parsons, SSN xxx-xx-x... xxx-... Field Artillery.
Col. Kermit Aubrey Patchen, SSN xxx-xx-x... xxx-... Corps of Engineers.
Col. Harold Newton Read, xxx-xx-xxxx, Military Police Corps.
Col. Otto Ervin Scherz, SSN xxx-xx-xxxx, Field Artillery.
Col. Paul Carlton Short, SSN xxx-xx-xxxx, Infantry.
Col. Amos Martin Stonecipher, SSN xxx-xx-x... xxx-... Infantry.
Col. Herman Tenkin, SSN xxx-xx-xxxx, Armor.
Col. Holden Claude West, SSN xxx-xx-xxxx, Armor.
Brig. Gen. Robert Eugene Wilson, SSN xxx-xx-xxxx Adjutant General's Corps.
Col. Arvin Reuben Ziehlsdorff, SSN xxx-... xxx-xx-x..., Armor.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Charles Watts Fernald, SSN xxx-xx-xxxx.
Brig. Gen. Harry Jack Mier, Jr., SSN xxx-... xxx-xx-x...

To be brigadier general

Col. Alfred Frederick Ahner, SSN xxx-xx-x... xxx-... Infantry.
Col. Albert Frank Fisher, SSN xxx-xx-xxxx, Field Artillery.
Col. Robert Samuel Ford, SSN xxx-xx-xxxx, Armor.
Col. John James Womack, SSN xxx-xx-xxxx xxx... Armor.

IN THE NAVY

Capt. Robin L. C. Quigley, U.S. Navy, for appointment to the grade of captain in the Navy while serving as commanding officer, Service School Command, San Diego, Calif., in accordance with article II, section 2, clause 2 of the Constitution.

Rear Adm. Donald L. Custis, Medical Corps, U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery with the grade of vice admiral for a term of 4 years in accordance with the provisions of title 10, United States Code, section 5137(a).

The following named officers of the Naval Reserve for temporary promotion to the grade of rear admiral subject to qualification therefor as provided by law:

LINE

James Grealish
Philip C. Koelsch
Robert N. Pitner
Frank B. Guest, Jr.
Richard G. Altman
John R. Rohleder
Robert M. Garrick

MEDICAL CORPS

William J. Mills

SUPPLY CORPS

Lee E. Landes

CIVIL ENGINEER CORPS

Philip V. King

JUDGE ADVOCATE GENERAL'S CORPS

Hugh H. Howell, Jr.

IN THE MARINE CORPS

Lt. Gen. Louis Metzger, U.S. Marine Corps, for appointment to the grade of lieutenant general on the retired list in accordance with the provisions of title 10, U.S. Code, section 5233 effective from the date of his retirement.

IN THE ARMY

Army nominations beginning Earl C. Acuff, to be colonel, and ending Ronald A. Jenkie, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 29, 1973; and

Army nominations beginning Rene J. Berard, to be colonel, and ending James K. Prough, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 1973.

IN THE MARINE CORPS

Marine Corps nominations beginning Lewis H. Abrams, to be colonel, and ending Billy W. Woodard, to be chief warrant officer (W-2) which nominations were received by the Senate and appeared in the Congressional Record on January 23, 1973; and

Marine Corps nominations beginning David L. Adams, to be second lieutenant, and ending Billy Q. Yoder, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, February 28, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be of good courage and He shall strengthen your heart, all ye that hope in the Lord.—Psalms 31: 24.

O God, open our minds that we may see ourselves as we really are and remove from within us any desire to hide our transgressions; that realizing our faults and acknowledging our sins we may be led by Thy Spirit to overcome them, to amend our ways, to be strengthened in goodness, and to walk with Thee in newness of life.

Cleanse the thoughts of our hearts as a nation and remove from our people the spirit of discord, injustice, and ill will. In our relationships with each other help us to be kind in our judgments, understanding in our attitudes, and friendly in spirit lest in bitterness and hatred we destroy ourselves.

Lead us, we pray Thee, in the paths of peace, unity, and good will for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

NATIONAL NUTRITION WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 196) authorizing the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week."

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the gentleman from California please explain the proposal?

Mr. EDWARDS of California. Yes, I would be glad to explain it.

Mr. Speaker, House Joint Resolution 196, as introduced by the gentleman from Kentucky (Mr. PERKINS), authorizes the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week."

Mr. GERALD R. FORD. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from California?

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 196

Whereas good nutrition is of vital importance to the health and well-being of this Nation's citizens; and

Whereas many Americans are not yet aware of the importance of good nutrition; and

Whereas most Americans are not entirely familiar with the necessary composition of a nutritious diet: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week", and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: On page 1, strike out the entire preamble.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HOW MANY TIMES MUST WE BUY BACK WHAT IS OURS?

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matters.)