COMPREHENSIVE CHILD DEVELOPMENT On November 30, the Conference Report on S. 2007, a bill extending the Economic Opportunity Act and for other purposes was filed in the Senate. Title V of this measure incorporates the major provisions of S. 1512, the Comprehensive Child Development Act of 1971, introduced earlier this year by Senators MONDALE, JAVITS, NELSON, SCHWEIKER and 29 co-sponsors. The child development provisions of the Conference Report appear reprinted below.

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CONFERENCE REPORT ON S. 2007, ECONOMIC OPPORTUNITIES AMENDMENTS OF 1971 (H. REPT. NO. 92-682)

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes:

CHILD DEVELOPMENT

SEC. 13. (a) Title V of the Economic Opportunity Act of 1964 is amended to read as follows:

"TITLE V—CHILD DEVELOPMENT PROGRAMS

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 501. (a) The Congress finds that—

"(1) millions of children in the Nation are suffering unnecessary harm from the lack of adequate child development services, particularly during early childhood years;

"(2) comprehensive child development programs, including a full range of health, education, and social services, are essential to the achievement of the full potential of the Nation's children and should be available to children whose parents or legal guardians shall request them regardless of economic, social, and family backgrounds;

"(3) children with special needs must receive full and special consideration in planning any child development programs and, pending the availability of such programs for all children, priority must be given to preschool children with the greatest economic and social need;

"(4) while no mother may be forced to work outside the home as a condition for using child development programs, such programs are essential to allow many parents to undertake or continue full- or part-time employment, training, or education;

"(5) comprehensive child development programs not only provide a means of delivering a full range of essential services to children but can also furnish meaningful employment opportunities for many individuals, including older persons, parents, young persons, and volunteers from the community; and

"(6) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, and State and local government with appropriate assistance from the Federal Government.

"(b) It is the purpose of this title to provide every child with a fair and full opportunity to reach his full potential by establishing and expanding comprehensive child development programs, and services designed to assure the sound and coordinated development of these programs, to recognize and build upon the experience and success gained through the Headstart program and similar efforts, to furnish child development services for those children who need them most, with special emphasis on preschool programs for economically disadvantaged children, and for children of working mothers and single parent families, to provide that decisions on the nature and funding of such programs be made at the community level with the full involvement of parents and other individuals and organizations in the community interested in child development, and to etsablish the legislative framework for child development services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. (a) For the purpose of carrying out this title, there is authorized to be appropriated $2,000,000,000 for the fiscal year ending June 30, 1973. Any amounts appropriated for such fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

"(b) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this title, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1972.

"ALLOCATION OF FUNDS

"SEC. 503. (a) The amounts appropriated for carrying out this title for any fiscal year after June 30, 1972, shall be made available in the following manner:

"(1) $500,000,000 shall first be used for the purpose of providing assistance under parts A, B, and E of this title for child development programs focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects;

"(2) not to exceed 10 per centum of the remaining amounts so appropriated shall be used for the purpose of carrying out parts B, C, D, and E of this title, as the Secretary deems appropriate; and

"(3) the remainder of such amounts shall be used for the purpose of carrying out part A of this title.

"(b)(1) From the amounts available for carrying out comprehensive child development programs under part A of this title, the Secretary shall reserve the following:

"(A) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

"(B) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

"(C) not less than 10 per centum of the total amount available for carrying out this title, which shall be made available for the purposes of section 512(2)(I) of such part (relating to special activities for handicapped children);

"(D) not to exceed 5 per centum of the total amount available for carrying out such part A, which shall be made available under section 513(f)(3) of such part (relating to model programs).

"(2) The Secretary shall allocate the remainder of the amount available for part A of this title (after making the reservations provided for in paragraph (1) of this subsection) among the States so as to provide the following geographical distribution:

"(A) 50 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of economically disadvantaged children in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(B) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children through age 5 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of children through age 5 in all the States, ex-

cluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(C) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the total number of children of working mothers and single parents in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection.

"(c) Not to exceed 5 per centum of the total funds allotted for use within a State pursuant to subsection (b)(2) may be made available for grants to the State to carry out the provisions of section 517 of this title.

"(d) The Secretary shall apportion the remainder of the amount allotted for use within each State (after making allocations under subsection (c)) among the localities in each such State so as to provide the following geographical distribution:

"(1) 50 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the area served by the locality bears to the number of economically disadvantaged children in the State;

"(2) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children through age 5 in the area served by the locality bears to the number of children through age 5 in the State;

"(3) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the area served by the locality bears to the number of children of working mothers and single parents in the State.

"(e) The portion of any allotment or apportionment under subsection (b) or (d) for a fiscal year which the Secretary determines will not be required, for the period for which such allotment or apportionment is available, for carrying out programs under this part shall be available for reallotment or reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States in the case of allotments under subsection (b), or to other localities in the case of apportionments under subsection (d), in proportion to the original allotments to such States under subsection (b), or the original apportionments to such localities under subsection (d), for such year, but with such proportionate amount for any of such States or localities being reduced to the extent it exceeds the needs of such State or locality for carrying out activities approved under this part, and the total of such reductions shall be similarly reallotted among the States or reapportioned among the localities whose proportionate amounts are not so reduced. Any amount reallotted to a State or reapportioned to a locality under this subsection during a year shall be deemed part of its allotment or apportionment under subsection (b) or (d) for such year.

"(f) In determining the numbers of children for purposes of allotting and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

"(g) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allotments and apportionments required by this section.

"PART A—COMPREHENSIVE CHILD DEVELOPMENT PROGRAMS

"FINANCIAL ASSISTANCE

"SEC. 511. The Secretary of Health, Education, and Welfare shall provide financial assistance for carrying out child development programs under this part to prime sponsors and to other public and private agencies and organizations pursuant to plans and applications approved in accordance with the provisions of this part.

"USES OF FUNDS

"SEC. 512. Funds available for this part may be used (in accordance with approved applications) for the following services and activities:

"(1) planning and developing child development programs, including the operation of pilot programs to test the effectiveness of new concepts, programs, and delivery systems;

"(2) establishing, maintaining, and operating child development programs, which may include—

"(A) comprehensive physical and mental health, social, and cognitive development services necessary for children participating in the program to profit fully from their educational opportunities and to attain their maximum potential;

"(B) food and nutritional services (including family consultation);

"(C) rental, remodeling, renovation, alteration, construction, or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

"(D) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities and the role of members of such minority groups in the history and cultural development of the Nation and of the region in which they reside;

"(E) a program of daily activities designed to develop fully each child's potential;

"(F) other specially designed health, social, and educational programs (including after school, summer, weekend, vacation, and overnight programs);

"(G) medical, dental, psychological, educational, and other appropriate diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional barriers to full participation in child development programs, including programs for preschool and other children who are emotionally disturbed;

"(H) prenatal and other medical services to expectant mothers who cannot afford such services, designed to help reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and postpartum and other medical services (including family planning information) to such recent mothers;

"(I) incorporation within child development programs of special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child development programs designed primarily to meet the needs of handicapped children, including emotionally disturbed children;

"(J) preservice and inservice education and other training for professional and paraprofessional personnel;

"(K) dissemination of information in the functional language of those to be served to assure that parents are well informed of child development programs available to them and may become directly involved in such programs;

"(L) services, including in-home services, and training in the fundamentals of child development, for parents, older family members functioning in the capacity of parents, youth, and prospective parents;

"(M) use of child advocates, consistent with the provisions of this title, to assist children and parents in securing full access to other services, programs, or activities intended for the benefit of children;

"(N) programs designed to extend comprehensive prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten and early primary grades (one through three), in cooperation with local educational agencies, including the use of former assistant Headstart teachers or similar early childhood education teachers as instructional aides (in addition to those employed by the schools involved) working closely with classroom teachers in the kindergarten and such early primary grades in which are enrolled children they taught in Headstart or other early childhood education programs, providing for full participation of parents of the children involved in program planning implementation, and decision-making and for career development opportunities and advancement through continuing education and training for the instructional aides involved (including teacher salaries, educational stipends for tuition, books, and tutoring, career counseling, arrangements for academic credit for independent study, fieldwork based on their teaching assignments, and preservice and inservice training) and for the classroom teachers and principals involved; and

"(O) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this part; and

"(3) staff and other administrative expenses of Child Development Councils established and operated in accordance with this part.

"PRIME SPONSORS OF CHILD DEVELOPMENT PROGRAMS

"SEC. 513. (a) In accordance with the provisions of this section, a State, locality, combination of localities, Indian tribal organization, or public or private nonprofit agency or organization, meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child development programs under this part, upon the approval by the Secretary of a prime sponsorship plan which—

"(1) describes the prime sponsorship area to be served;

"(2) sets forth satisfactory provisions for establishing and maintaining a Child Development Council which meets the requirements of section 514;

"(3) provides that the Child Development Council shall be responsible for developing and preparing a comprehensive child development plan for each fiscal year and any modifications thereof;

"(4) sets forth arrangements under which the Child Development Council will be responsible for planning, supervising, coordinating, monitoring, and evaluating child development programs in the prime sponsorship area;

"(5) in the case of an applicant which is a State, a locality, or a combination of localities, provides for the operation of programs under this part through contracts with public or private agencies or organizations, including but not limited to community action agencies, single-purpose Headstart agencies, community development corporations, parent cooperatives, organizations of Indians, employer and employee organizations, and local public and private educational agencies and institutions, which will serve children in a community or neighbor-

hood or other area possessing a commonality of interest; and

"(6) provides assurances that, where available, the Council will provide itself, or by contract or other arrangement with State, local, or other public agencies or private nonprofit organizations—

"(A) child-related family, social, and rehabilitative services;

"(B) coordination with educational agencies and providers of educational services;

"(C) health (including family planning) and mental health services;

"(D) nutrition services; and

"(E) training of professional and paraprofessional personnel.

"(b) The Secretary shall approve a prime sponsorship plan submitted by a locality which has a population of 5,000 or more persons and is a (1) city, (2) county, or (3) other unit of general local government, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provision for carrying out comprehensive child development programs in the area of such locality. In the event that the area under the jurisdiction of a unit of general local government described in clause (1), (2), or (3) of the preceding sentence includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he detemines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted a plan which meets the requirements of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(c)(1) In the event that the Secretary determines that a locality does not meet the requirements for designation as a prime sponsor under this section, he shall take steps to encourage the submission of a prime sponsorship plan, covering the area of such locality, by a combination of localities which are adjoining and possess a sufficient commonality of interest.

"(2) The Secretary shall approve a prime sponsorship plan submitted by a combination of localities, having a total population of 5,000 or more persons, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area covered by the combination of such localities.

"(d) The Secretary shall approve a prime sponsorship plan submitted by an Indian tribal organization if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area to be served.

"(e) In the event that the Secretary determines, with respect to the area of a particular locality, that a prime sponsorship plan meeting the requirements of this section has not been submitted by a locality or combination of localities covering such area, or by an Indian tribal organization, or in the event that prime sponsorship designation has been disapproved or withdrawn in accordance with subsection (h) of this section, the Secretary may, with respect to the impending fiscal year when no such prime sponsorship designation will be in effect, approve a plan submitted by the State which meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(f) The Secretary may approve a prime sponsorship plan submitted by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agriculture workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes—

"(1) provisions setting forth arrangements for serving children in a neighborhood or other area possessing a commonality of interest in the area of any locality with respect to which there is no prime sponsorship designation in effect or with respect to any portion of an area where the prime sponsor is found not to be satisfactorily implementing child development programs which adequately meet the purposes of this part, or for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

"(2) arrangements for providing comprehensive child development programs on a year-round basis to children of migrant agricultural workers and their families; or

"(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual preschool children.

"(g) The Governor or appropriate State agency shall be given not less than thirty nor more than sixty days to review applications for designation filed by other than the State, offer recommendations to the applicant, and submit comments to the Secretary.

"(h) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(i)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) When a unit (or combination of units) of general government is maintaining a pattern and practice of exclusion of minorities, the Secretary shall give preference in the approval of applications for prime sponsorship to an alternative unit of government or to a public or private nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons.

"(k) In the event that a State, a locality, a combination of localities, or an Indian tribal organization has not submitted a comprehensive child development plan under section 515 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under section 513, or where the needs of migrants, pre-school-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

"CHILD DEVELOPMENT COUNCILS

"SEC. 514. (a) Each prime sponsor designated under section 513 shall establish and maintain a Child Development Council composed of not less than 10 members as follows—

"(1) not less than half of the members of such Council shall be parents of children served in child development programs under this part; and

"(2) the remaining members shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the Secretary may waive the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served.

At least one-third of the total membership of the Child Development Council shall be parents who are economically disadvantaged. Each Council shall select its own chairman.

"(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 513 shall provide, with respect to the Child Development Council established and maintained by such prime sponsor, that—

"(1) the parent members described in paragraph (1) of subsection (a) of this section shall be chosen by the membership of Headstart policy committees where they exist, and, at the earliest practicable time, by project policy committees established pursuant to section 516(a)(2) of this part;

"(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this part;

"(3) such Council shall have responsibility for approving basic goals, policies, actions, and procedures for the prime sponsor, including policies with respect to planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects; and

"(4) such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

"COMPREHENSIVE CHILD DEVELOPMENT PLANS

"SEC. 515. (a) Financial assistance under this part may be provided by the Secretary for any fiscal year to a prime sponsor designated pursuant to section 513 only pursuant to a comprehensive child development plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this part. Any such plan shall set forth a comprehensive program for providing child development services in the prime sponsorship area which—

"(1) identifies all child development needs and goals within the area and describes the purposes for which the financial assistance will be used;

"(2) meets the needs of children in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, including infant care and before and after school programs for children in school with priority to children who have not attained six years of age;

"(3)(A) provides that funds received under section 503(a)(1) will be used for child development programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1972, under section 222(a)(1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 503(d) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving children of families having an annual income below the lower living standard budget as determined under paragraph (5) of section 571;

"(4) gives priority thereafter to providing child development programs and services to children of single parents and working mothers not covered under paragraph (3);

"(5) provides procedures for the approval of project applications submitted in accordance with section 516;

"(6) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for child development services of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

"(7) provides that, to the extent feasible, each program within the prime sponsorship area will include children from a range of socioeconomic backgrounds;

"(8) provides comprehensive services (A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for development of skills in English and in the other language spoken in the home, and (B) to meet the needs of all children to understand the history and cultural background of minority groups which belong to the communities and the role of members of such minority groups in the history and cultural development of the Nation and the region in which they reside;

"(9) provides equitably for the child development needs of children from each minority group or significant segment of the economically disadvantaged residing within the area served;

"(10) provides, insofar as possible, for coordination of child development programs with other social programs (including but not limited to those relating to employment and manpower) so as to keep family units intact or in close proximity during the day;

"(11) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

"(12) provides to the extent feasible for the employment as both professionals and paraprofessionals of persons resident in the neighborhoods from which children are drawn;

"(13) includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

"(14) provides that, insofar as possible, persons residing in communities being served by such projects will receive jobs, including in-home and part-time jobs, and opportunities for training in programs under part B of this title, with special consideration for career opportunities for low-income persons;

"(15) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons in the community are fully informed of the activities of the Child Development Council and of delegate agencies;

"(16) assures that procedures and mechanisms for coordination have been developed in cooperation with preschool program administrators and administrators of local educational agencies and nonpublic schools, at the local level, to provide continuity between programs for preschool and elementary school children and to coordinate programs conducted under this part and programs conducted pursuant to section 222(a)(2) of the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965;

"(17) establishes arrangements in the area served for the coordination of programs conducted under the auspices of or with the support of business or financial institutions or organizations, industry, labor, employee and labor-management organizations, and other community groups;

"(18) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child Development Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this part or for planning or evaluation services to be made available with respect to programs under this part;

"(19) contains plans for regularly conducting surveys and analyses of needs for child development programs in the prime sponsorship area and for submitting to the Secretary a comprehensive annual report and evaluation in such form and containing such information as the Secretary shall require by regulation;

"(20) provides that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan;

"(21) provides assurances satisfactory to the Secretary that the non-Federal share requirements will be met;

"(22) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

"(23) provides that consideration will be given to project applications submitted by public, private nonprofit, and profitmaking organizations with emphasis given to ongoing programs, and that comparative costs of providing services shall be considered along with the quality of such services;

"(24) provides that programs or services under this title shall be provided only for children whose parents or legal guardians have requested them; and

"(25) provides assurance that in developing plans for any facilities due consideration will be given to excellence of architecture and design, and to the inclusion of works of art (no representing more than 1 per centum of the cost of the project).

"(b) No comprehensive child development plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

"(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this part or under section 222(a)(1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

"(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

"(3) the Governor of the State has had an opportunity to submit comments to the prime sponsor and to the Secretary.

"(c) A comprehensive child development plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(d) In order to contribute to the effective administration of this title, the Secretary shall establish appropriate procedures to permit prime sponsors to submit jointly a single comprehensive child development plan for the areas served by such prime sponsors.

"PROJECT APPLICATIONS

"SEC. 516. (a) Financial assistance under this part may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

"(1) that funds will be provided for carrying out any child development program under this part only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution;

"(2) for establishing and maintaining project policy committees composed of not less than 10 members as follows—

"(A) not less than half of the members of each such committee shall be parents of children served by such project, and

"(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) at least one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the

Secretary may waive the requirement of this clause (ii) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

"(3) for direct participation of such policy committees in the development and preparation of project applications under this part;

"(4) that adequate provision will be made for training and other administrative expenses of such policy committees (including necessary expenses to enable low-income members to participate in council or committee meetings);

"(5) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, including policies with respect to planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects;

"(6) that programs assisted under this part will provide for such comprehensive health, nutritional, education, social, and other services, as are necessary for the full cognitive, emotional, and physical development of each participating child;

"(7) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

"(8) that with respect to child development services provided by programs assisted under this part—

"(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

"(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 571) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and, if more than two children from the same family are participating additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child;

"(9) that children will in no case be excluded from the programs operated pursuant to this part because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

"(10) that programs will, to the extent appropriate, employ paraprofessional aides and volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child development programs;

"(11) that no person will be denied employment in any program solely on the ground that he fails to meet State or local teacher certification standards;

"(12) that programs assisted under this part will provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the specialized needs of each participating child;

"(13) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

"(14) that provision will be made for such fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

"(b) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child development plan as approved pursuant to section 515.

"(c) A project application from a public or private nonprofit agency which is also a prime sponsor under section 513(f) shall be submitted directly to the Secretary, together with the comprehensive child development plan.

"(d) A project application submitted directly to the Secretary by a public or private agency may be approved by the Secretary upon his determination that it meets the requirements of subsection (a) of this section.

"SPECIAL GRANTS TO STATES

"SEC. 517. Upon application submitted by any State, the Secretary is authorized to provide financial assistance for use by such State for carrying out activities for the purposes of—

"(1) identifying child development goals and needs within the State;

"(2) assisting in the establishment of Child Development Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child development programs;

"(3) encouraging the cooperation and participation of State agencies in providing child development and related services, including health, family planning, mental health, education, nutrition, and family, social and rehabilitative services where requested by appropriate prime sponsors in the development and implementation of comprehensive child development plans;

"(4) encouraging the full utilization of resources and facilities for child development programs within the State;

"(5) disseminating the results of research on child development programs;

"(6) conducting programs for the exchange of personnel involved in child development programs within the State;

"(7) assisting public and private nonprofit agencies and organizations in the acquisition or improvement of facilities for child development programs;

"(8) assessing State and local licensing codes as they relate to child development programs within the State; and

"(9) developing information useful in reviewing prime sponsorship plans under section 513(g) and of comprehensive child development plans under section 515(b)(3).

"ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

"SEC. 518. (a) Applications for financial assistance for projects including construction may be approved only if the Secretary determines that construction of such facilities is essential to the provision of adequate child development services, and that rental, renovation, remodeling, or leasing of adequate facilities is not practicable.

"(b) If any facility assisted under this part shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loans shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

"(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

"(f) In the case of a project for the construction of facilities and in the development of plans for such facilities 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).

"USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"SEC. 519. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within sixteen months after enactment of this title report to the Congress with respect to the extent to which facilities owned or leased by Federal departments, agencies, and independent authorities could be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

"(b) The Secretary may require, as a condition to the receipt of assistance under this part, that any prime sponsor under this part agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made avail-

able, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

"PAYMENTS

"SEC. 520. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 503 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this part. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Development Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 80 per centum of the cost of carrying out programs, services, and activities under this part. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child development needs of economically disadvantaged children.

"(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child development programs for children of migrant agricultural workers and their families under this part.

"(3) The Secretary shall pay to each prime sponsor approved under section 513(d) an amount equal to 100 per centum of the costs of providing child development programs for children in Indian tribal organizations.

"(c) The non-Federal share of the costs of programs assisted under this part may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 516(a)(8) shall not be used to make up the non-Federal share, but shall be used by the project applicant for the same purposes as payments under this section, except that, in the case of projects assisted under a comprehensive child development plan, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 515(a)(3).

"(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this part.

"(e) No State or locality shall reduce its expenditures for child development or day-care programs by reason of assistance under this part.

"PART B—TRAINING, TECHNICAL ASSISTANCE, PLANNING, AND EVALUATION

"PRESERVICE AND INSERVICE TRAINING

"SEC. 531. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child development programs assisted under this title, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child development program, or any institution of higher education, including a community college, or by any combination thereof.

"TECHNICAL ASSSISTANCE AND PLANNING

"SEC. 532. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this title on a continuing basis to assist them in planning, developing, and carrying out child development programs.

"EVALUATION

"SEC. 533. (a) The Secretary shall, through the Office of Child Development unless the Secretary determines otherwise, make an evaluation of Federal involvement in child development activities and services, which shall include—

"(1) enumeration and description of all Federal activities which affect child development;

"(2) analysis of expenditures of Federal funds for such activities and services;

"(3) determination of the effectiveness of such activities and services;

"(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this title; and

"(5) such recommendations to the Congress as the Secretary may deem appropriate.

"(b) The results of the evaluation required by subsection (a) of this section shall be reported to the Congress not later than eighteen months after the date of enactment of this title.

"(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child development programs, and shall report the results of each such evaluation to Congress.

"(d) Prime sponsors and project applicants assisted under this title and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section.

"(e) The Secretary may enter into contracts with public or private agencies, organizations, or individuals to carry out the provisions of this section.

"(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under paragraphs (2) and (3) of section 503(a) of this title for any fiscal year.

"FEDERAL STANDARDS FOR CHILD DEVELOPMENT SERVICES

"SEC. 534. (a) Within six months after the enactment of the Economic Opportunity Amendments of 1971, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child development services with Federal assistance under this title, to be known as the Federal Standards for Child Development Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

"(b) Such standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

"(c) The Secretary shall, within sixty days after enactment of this title, appoint a Special Committee on Federal Standards for Child Development Services, which shall include parents of children enrolled in child development programs, representatives of public and private agencies and organizations administering child development programs, specialists, and others interested in the development of children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act. Such Committee shall participate in the development of Federal Standards for Child Development Services and modifications thereof as provided in subsection (a).

"DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

"SEC. 535. (a) The Secretary shall, within sixty days after enactment of the Economic Opportunity Amendments of 1971, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child development facilities. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for Child Development Services under section 534.

"(b) The special committee appointed under this section shall include parents of children participating in child development programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering child development programs, and national agencies or organizations interested in the development of children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act.

"(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

"(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this title or in which programs receiving Federal financial assistance under this title are operated. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

"PART C—FACILITIES FOR CHILD DEVELOPMENT PROGRAM

"MORTGAGE INSURANCE FOR CHILD DEVELOPMENT FACILITIES

"SEC. 541. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for child care and child development programs.

"(b) For the purpose of this part—

"(1) The term 'child development facility' means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child development programs.

"(2) 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 Secretary of Health, Education, and Welfare is authorized to insure 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.

"(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child development 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 Secretary of Health, Education, and Welfare, who demonstrates ability successfully to operate one or more child care or child development programs. The Secretary of Health, Education, and Welfare 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 Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Development Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and 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 child development facility, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary of Health, Education, and Welfare 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 Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

"(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child development facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 535.

"(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under part A of this title a certificate that the facility is consistent with and will not hinder the execution of the prime sponsor's plan.

"(6) In the plans for such child development facility, 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).

"(e) The Secretary of Health, Education, and Welfare 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 Child Development Facility Insurance Fund (established by subsection (h)) 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 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 Secretary of Health, Education, and Welfare 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 Secretary of Health, Education, and Welfare 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 may prescribe.

"(g)(1) The Secretary of Health, Education, and Welfare 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.

"(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 Child Development Facility Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Child Development Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare 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 Child Development Facility Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Development Facility Insurance Fund.

"(3) Moneys in the Child Development Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare 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 Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Development Facility 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 appraisal 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 Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the fund, shall be credited to the Child Development Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation 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 Child Development Facility Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"PART D—FEDERAL GOVERNMENT CHILD DEVELOPMENT PROGRAMS

"PROGRAM AUTHORIZED

"SEC. 546. (a) The Secretary is authorized to make grants for the purpose of establishing and operating child development programs (including the lease, rental, or construction of necessary facilities and the acquisition of necessary equipment and supplies) for the children of employees of the Federal Government.

"(b) Employees of any Federal agency or group of such agencies employing eighty or more working parents of young children who desire to participate in the grant program under this part shall—

"(1) designate or create for the purpose an agency commission, the membership of which shall be broadly representative of the working parents employed by the agency or agencies; and

"(2) submit to the Secretary a plan approved by the official in charge of such agency or agencies, which—

"(A) provides that the child development program shall be administered under the direction of the agency commission;

"(B) provides that the program will meet the Federal interagency standards for child development;

"(C) provides a means of determining priority of eligibility among parents wishing to use the services of the program;

"(D) provides for a scale of fees based upon the parents' financial status; and

"(E) provides for competent management, staffing, and facilities for such program.

"(c) The Secretary shall not make payments under this section unless he has received approval of the plan from the official in charge of the agency whose employees will be served by the child development program.

"PAYMENTS

"SEC. 547. (a) Not more than 80 per centum of the total cost of child development programs under this part shall be paid from Federal funds available under this title.

"(b) The share of the total cost not available under paragraph (a) may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, fees collected from parents, or union or employer contributions.

"(c) If, in any fiscal year, a program under this part provides non-Federal contributions exceeding its requirements under this section, such excess may be used to meet the requirements for such contributions for the succeeding year.

"(d) In making grants under this part, the Secretary shall, insofar as is feasible, distribute funds among the States according to the same ratio as the number of Federal employees in that State bears to the total number of Federal employees in the United States.

"PART E—RESEARCH AND DEMONSTRATION

"DECLARATION OF PURPOSES

"SEC. 551. The purposes of this part are to focus national research efforts to attain a fuller understanding of the processes of child development and the effects of organized programs upon these processes; to develop effective programs for research into child development; and to assure that the result of research and development efforts are reflected in the conduct of programs affecting

children through the improvement and expansion of child development and related programs.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 552. (a) In order to further the purposes of this part, the Secretary shall carry out a program of research and demonstration projects, which shall include but not be limited to—

"(1) research to determine the nature of child development processes and the impact of various influences upon them, to develop techniques to measure and evaluate child development, to develop standards to evaluate professional and paraprofessional child development personnel, and to determine how child development and related programs conducted in either home or institutional settings affect child development processes;

"(2) research to test alternative methods of providing child development and related services, and to develop and test innovative approaches to achieve maximum development of children and programs for training adolescent youth in child development;

"(3) evaluation of research findings and the development of these findings and the effective application thereof;

"(4) dissemination and application of research and development efforts and demonstration projects to child development and related programs and early childhood education, using regional demonstration centers and advisory services where feasible;

"(5) production of informational systems and other resources necessary to support the activities authorized by this part; and

"(6) integration of national child development research efforts into a focused national research program, including the coordination of research and development conducted by other agencies, organizations, and individuals.

"(b) In order to carry out the program provided for in subsection (a), the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or private nonprofit agencies (including other Government agencies), organizations, and institutions, and to enter into contracts with private agencies, organizations, institutions, and individuals.

"COORDINATION OF RESEARCH

"SEC. 553. (a) Funds available to any Federal department or agency for the purposes stated in section 551 or the activities stated in section 552(a) shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary for the purposes for which the transfer was made.

"(b) The Secretary shall coordinate, through the Office of Child Development, established under section 572 of this title, all child development research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

"(c) A Child Development Research Council, consisting of a representative of the Office of Child Development established under section 572 of this title (who shall serve as Chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet at least annually and at such more frequent times as they may deem necessary, in order to assure coordination of child development and related activities under their respective jurisdictions and to carry out the provisions of this part so as to assure—

"(1) maximum utilization of available resources through the prevention of duplication of activities;

"(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this part; and

"(3) recommendation of priorities for federally funded research and development activities related to the purposes of this part and those stated in section 501.

"ANNUAL REPORT

"SEC. 554. The Secretary shall make an annual report to Congress summarizing his activities and accomplishments during the preceding year under this part; the grants, contracts, or other arrangements entered into during the preceding year under this part, and making such recommendations as he may deem appropriate.

"PART F—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 571. As used in this title, the term—

"(1) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(2) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(3) 'child development programs' means programs provided on a full-day or part-day basis which provide the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential;

"(4) 'children' means individuals who have not attained the age of fifteen;

"(5) 'economically disadvantaged children' means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

"(6) 'handicapped children' includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services;

"(7) 'program' includes any program, service, or activity, which is conducted full or part time, day or night, in child development facilities, in schools, in neighborhood centers, or in homes, or which provides child development services for children whose parents are working or receiving education or training;

"(8) 'locality' means any city or other municipality or any county or other political subdivision of a State having general governmental powers, or any combination thereof;

"(9) 'parent' means any person who has day-to-day parental responsibility for any child;

"(10) 'single parent' means any person who has sole day-to-day responsibility for any child;

"(11) 'working mother' means any mother who requires child development services under this title in order to undertake or continue full- or part-time work, training, or education outside her home;

"(12) 'minority group' includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, do not have an equal educational opportunity, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

"(13) 'Bilingual' includes, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, do not have an equal educational opportunity;

"(14) 'local educational agency' means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

"(15) 'institution of higher education' means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

"OFFICE OF CHILD DEVELOPMENT

"SEC. 572. The Secretary shall take all necessary action to coordinate child development programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which shall be the principal agency of the Department for the administration of this title and for the coordination of programs and other activities relating to child development.

"NUTRITION SERVICES

"SEC. 573. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child development programs under this title. Such services shall make use of the Special Food Service Program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

"SPECIAL PROVISIONS

"SEC. 574. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this title, as he may deem necessary to carry out the provisions of this title, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 575, the Secretary may also withhold funds otherwise payable under this title in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this title or any term or condition of assistance under this title.

"(b) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

"(c) The Secretary shall not provide financial assistance for any program, service, or activity under this title unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(d) The Secretary shall not provide financial assistance for any program under this

title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be engaged, in any way or to any extent, in the conduct of political activities in contravention of section 603 of this Act.

"(e) The Secretary shall not provide financial assistance for any program under this title unless he determines that no funds will be used for and no person will be employed under the program on the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

"(f) A child participating in a program assisted under this title shall not be required to undergo medical or psychological examination (except to the extent related to learning ability), immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment, if his parent or guardian objects thereto in writing on religious grounds.

"WITHHOLDING OF GRANTS

"SEC. 575. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any prime sponsor or project applicant, finds—

"(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 515; or

"(2) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 516; or

"(3) that in the operation of any program or project carried out by any such prime sponsor or project applicant under this title there is a failure to comply substantially with any applicable provision of this title or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor or project applicant of his findings and that no further payments may be made to such sponsor or applicant under this title (or in his discretion that any such prime sponsor shall not make further payments under this title to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this title which is being carried out pursuant to such plan or application and which is not involved in the noncompliance.

"ADVANCE FUNDING

"SEC. 576. (a) For the purpose of affording adequate notice of funding available under this title such funding for grants, contracts, or other payments under this title is authorized to be included in the Appropriations 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, subsection (a) 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.

"PUBLIC INFORMATION

"SEC. 577. Applications for designation as prime sponsors, comprehensive child development plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

"FEDERAL CONTROL NOT AUTHORIZED

"SEC. 578. No department, agency, officer, or employee of the United States shall, under authority of this title, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

"NONDISCRIMINATION PROVISIONS

"SEC. 579. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if on the ground of sex that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this title.

"LIMITATION OF RESEARCH AND EXPERIMENTATION

"SEC. 580. The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this title other than routine testing and normal program evaluaion unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

"PARENTAL RESPONSIBILITY

"SEC. 581. (a) Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this title be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

(b) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing child development services, while assuring continuity of existing programs during transition to the programs authorized under this title, the Economic Opportunity Act of 1964 is amended, effective July 1, 1973, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children but not operation of child development programs for children".

(3) Section 123(a)(6) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children", and adding after the word "employment" the phrase "but not including the direct operation of child development programs for children".

(4) Section 312(b)(1) of such Act is amended by striking out "day care for children,".

(c) The Secretary of Health, Education, and Welfare shall promulgate regulations to assure that other federally funded child development and related programs, including title I of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964, will coordinate with the programs designed under this title. The Secretary shall insure that joint technical assistance efforts will result in the development of coordinated efforts between the Office of Education and the Office of Child Development.

(d)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child development facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child development facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child development facilities,", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child development facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child development facility' means any such facility as defined in 541(b)(1) of the Economic Opportunity Act of 1964."

(e) Section 205(b)(3) of the National Defense Education Act of 1958 is amended (1) by adding after the word "nonprofit" the phrase "child development program or" and (2) by striking out "and (C)" and inserting in lieu thereof "(C) such rate shall be 15 per centum for each complete academic year or its equivalent (as so determined by regulations) of service as a full-time teacher in public or private nonprofit child development programs or in any such programs assisted under title V of the Economic Opportunity Amendments of 1971, and (D)".

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Senate

By Mr. NELSON (for himself and Mr. MONDALE):

S. 2946. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes. Referred to the Committee on Commerce.

Mr. NELSON. Mr. President, Senator MONDALE and I are introducing today a bill to require that auto manufacturers recall and repair safety related defects free of charge, when the Department of Transportation determines that such a recall is necessary.

In the past 2 months, major safety related defects have been revealed in several domestic automobiles: faulty motor mounts, which can cause sudden jamming of accelerators on some 6 million Chevrolets built between 1965 and 1970; and defective heaters blamed for leaking carbon monoxide fumes in Corvairs built between 1961 and 1969. Some 760,000 Corvairs are still in use.

Under existing law, the National Traffic and Motor Vehicle Safety Act of 1966, auto manufacturers are required to notify car owners of safety related defects.

Senator MONDALE was the sponsor of the defect notification provision in the 1966 act.

However, manufacturers are under no obligation to recall the faulty equipment nor to repair it free of charge to the consumer. Thus, unless the manufacturer agrees to remedy such defects, the car owner must bear the cost himself. A provision, which would have remedied this problem by requiring auto manufacturers to recall and repair safety-related defects free of charge, passed the Senate in 1970 as part of a package (H.R. 10105) amending the National Traffic and Motor Vehicle Safety Act of 1966. The recall and repair provision, however, was dropped in conference.

The bill that we are introducing today restores the language that was dropped in conference.

Senator HARTKE, chairman of the Senate Commerce Committee Subcommittee on Surface Transportation, made it clear after the 1970 conference that Congress would be watching auto manufacturers closely to see if they honored their word to repair auto safety defects without charge to car owners. I ask that Senator HARTKE's statement explaining the conference action on H.R. 10105 be included in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The present situation indicates that manufacturers have not been true to their word.

The companies have not offered to recall the affected autos, or to pay for repairs as needed.

Douglas W. Toms, Director of the NHSTA, stated November 16:

We are pleased that GM agreed to send out defect notices [regarding Corvairs]. The one thing GM refused to do was pay for repairs. We asked them to do that, but they were firm and there didn't appear any way of changing them. It would be nice if we could get these corvairs repaired free of cost to the consumer, but, as I said, we don't have the authority.

Toms further stated:

We have been able to achieve everything that the law permits us to do. We have gone the full extent of the legal remedy. We have asked for recall authority because we think it is necessary to do our job.

The Department of Transportation strongly supported the recall and repair provision in 1969. In a letter to Commerce Committee Chairman Senator WARREN MAGNUSON, Under Secretary of Transportation James M. Beggs wrote:

We agree with the sponsors of the proposal that defect repair as well as defect notification is important if we are to achieve the safety goals Congress established in the act. We have learned from experience that unless notification of a safety related defect in a motor vehicle or equipment is accompanied by an offer to remedy that defect without expense to the vehicle owner, many persons will allow those defects to go uncorrected.

To cover this situation, we agree that the Secretary should be legally authorized to direct a recall campaign when he determines that the interests of motor vehicle safety make one appropriate.

It is clear that Congress must take the next step, if the auto industry does not act to protect the consumer.

Such legislative mandates would act as a stimulus to better manufacturing practices.

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

Mr. President, I ask unanimous consent that, at the conclusion of my remarks, several articles describing this situation be printed in the RECORD following Senator HARTKE's statement explaining conference action on the 1970 bill (H.R. 10105), previously printed in the CONGRESSIONAL RECORD on April 23, 1970.

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

S. 2946

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 113(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) is amended to read as follows:

"(c) The notification required by subsection (a) or (e) of this section shall contain a clear description of such failure to comply with applicable motor vehicle safety standards or such defect, an evaluation of the risk to traffic safety reasonably related to such defect, a statement of the measures to be taken to repair such failure or defect, and the commitment of such manufacturer to cause such failure or defect to be remedied without charge."

(b) Section 113 of such Act is further amended by redesignating subsection "(g)" as subsection "(h)" and inserting immediately after subsection (f) the following new subsection:

"(g) If—

"(1) any motor vehicle (including any item of original motor vehicle equipment) or tire is determined by the manufacturer under subsection (a) to contain a defect which relates to motor vehicle safety; or

"(2) any motor vehicle or item of motor vehicle equipment is determined by the Secretary under subsection (e) to contain a failure to comply with applicable motor vehicle safety standards prescribed under this title or a defect which relates to motor vehicle safety;

and the notification specified in subsection (c) is required to be furnished on account of such failure or defect, then—

"(A) the manufacturer of each such motor vehicle presented for remedy pursuant to such notice shall cause such failure or defect in such motor vehicle (including any item of original motor vehicle equipment) to be remedied without charge; or

"(B) the manufacturer of each such other item of motor vehicle equipment presented for remedy pursuant to such notice shall cause such failure or defect in such item of motor vehicle equipment to be remedied without charge.

"If a manufacturer can establish to the satisfaction of the Secretary that a failure to comply with an applicable motor vehicle safety standard is of such inconsequential nature that the purposes of this title and the public interest would not be served by requiring the applicable manufacturer to remedy such noncompliance, the Secretary may, upon publication of his reasons for such findings, exempt such manufacturer from the requirements of this subsection with respect to such failure."

STATEMENT OF SENATOR HARTKE EXPLAINING CONFERENCE ACTION ON H.R. 10105

AUTHORIZATION

The Committee adopted the following dollar amounts as authorization for the Department's motor vehicle safety program:

1970, $23 million.
1971, $40 million.
1972, $40 million.

Because the Administration will begin planning for its 1972 budget next fall, the conferees thought it advantageous to include a fiscal year 1972 authorization amount in this bill. Since the Department did not request or provide justification of appropriations for fiscal year 1972, the Committee set the authorization amount at 40 million dollars for both 1971 and 1972. However, the identical amounts for these two years are not intended to be a prohibition on the necessary growth of the safety program but rather reflect the Committee's best estimate of need at this time. The Department is invited to inform the Commerce Committees if it finds that its needs for the motor vehicle safety program for fiscal year 1972 can be justified at an amount higher than $40 million.

The Committee deleted the provision in section 121(c) which would have made available in 1970 2.8 million dollars for employment of additional personnel in the National Highway Safety Bureau to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966. This deletion was made because fiscal year 1970 had nearly ended at the time of the Committee's action, and the fiscal year 1970 appropriations had already been enacted.

The Committee's action is not meant to suggest that the Committee is no longer concerned about the level of staffing in the National Highway Safety Bureau. To the contrary, the Committee believes that this is one of the Bureau's most critical needs as was shown during the authorization hearings in 1969.

The Committee is hopeful that recent actions by the Department of Transportation will be satisfactory to meet manpower needs. In the fiscal year 1970 appropriations, there was an increase of 56 staff positions provided for the National Highway Safety Bureau, reaching a total of 518 positions. With the reorganization of the Bureau into a major operating element in the Department of Transportation, a step which the Committee heartily approves, the staff positions previously allocated to the Federal Highway Administration to provide support services for the Bureau were transferred to the Bureau's staff, making a total for fiscal year 1970 of 589 staff positions. The Committee understands that for fiscal year 1971 the Department is requesting an additional 254 positions for the National Highway Safety Bureau, reaching a total of 843.

In view of these steps the Committee believes that it is not necessary, as it appeared at this time last year, to specifically allovate a portion of the authorization for appropriations solely for the purpose of hiring additional staff. However, the Committee intends to continue its oversight and review of Bureau operations to make certain that this trend is not reversed or slowed down.

DEFINITION OF MOTOR VEHICLE EQUIPMENT

The Senate-passed bill had expanded the definition of "motor vehicle equipment" to authorize the setting of standards not only for motor vehicles and motor vehicles equipment but for automotive safety accessories and equipment such as motorcycle goggles, tire repair equipment and tire inflation equipment. The House conferees agreed with the thrust of the Senate amendment but they expressed concern that the Senate definition might be interpreted to include items which had only tangential relationship to automotive safety such as shoes or gloves. To clarify the intention of the conferees not to include such tangential items, the Senate amendment was limited to accessories intended for use "exclusively" to safeguard

motor vehicles, drivers, passengers and other highway users from risk of accident, injury or death.

PROSPECTIVE PURCHASES—CONSUMER INFORMATION

The Committee amended the provisions of section 112(d) of the Act concerning consumer information to make it clear that manufacturers would be required to provide consumer information to prospective purchasers as well as to owners. Thus, the bill requires that the information be given to each prospective purchaser at each location where any such manufacturer of vehicles or items of equipment are offered for sale by a person with whom the manufacturer has a contractual, proprietary, or other legal relationship. The information must, as a minimum, include printed material which can be retained by the prospective purchaser or sent to him by mail at his request. For the purchaser, the printed material must be placed in the motor vehicle or attached to or accompany the item of equipment.

The Committee recognizes the great difficulty and complicated task facing the Department and the manufacturers in developing comparable technical safety information which is useful for consumers. Nevertheless, the Committee believes that these requirements are essentials of the Safety Act. The Committee was impressed with the first effort made by the Department to collect and organize the vast amount of consumer information submitted by the manufacturers in December 1969 and urges the Secretary to continue and perfect the document entitled "Performance Data for new Passenger Cars and Motorcycles". Because of the importance of disseminating this information for all makes and models of vehicles sold in the United States, the Committee urges the Secretary to disseminate this booklet as widely as possible and require manufacturers to make it available at each dealership.

It has come to the Committee's attention that despite the promulgation of the first consumer information regulations on January 1, 1970, the vast majority of motor vehicle dealers have not been volunteering the information to consumers. In other words, the dealers are not posting the information at the dealerships or in other ways attempting to inform the consumer about the availability of this information. The Department of Transportation made a survey of dealers to determine the extent to which they made the consumer information available during the first months of 1970. The survey showed that only 1.8% of the dealers had the information on display although 85% were able to produce the information when specifically requested to do so by the survey team.

The Committee expects that the Department will, under the new language of this bill, issue regulations which specifically show the steps the manufacturers, distributors and dealers are expected to take in assuring that consumers are fully informed and have access to the consumer information provided in accordance with section 112(d) of the Act.

DEFECT NOTIFICATION AND RECALL

The Committee considered the addition to the bill of the Senate language which would have specifically required motor vehicle and tire manufacturers to remedy without charge the vehicle or equipment determined to be defective or not in compliance with Federal vehicle safety standards. However, the Committee did not believe it necessary at this time to adopt the Senate language. It is the Committee's understanding that it has to date been the general practice for the industry to remedy without charge any vehicle or equipment about which safety defect notification (concerning a defect or violation of standard) has been sent to owners. The Committee agrees that it is implicit in present law, in the requirements for notification of owners, that the manufacturer must remedy the defect or violation without charge.

Thus, the Committee emphasizes that this action is in no way intended to suggest that the Committee does not expect all manufacturers to remedy defective and non-complying vehicles and equipment without charge. It is obvious that unless the manufacturers accept this responsibility, there is little likelihood that owners will bring their vehicles to dealers for correction. It would be an intolerable situation if the manufacturers, after notifying owners that the product they manufactured was defective or in violation of a safety standard and in need of correction, would not also effect the correction without charge.

The Committee is not interested in needlessly adding legislative language to the National Traffic and Motor Vehicle Safety Act. However, the Committee fully intends to carefully watch the performance of all manufacturers and the extent to which they cooperate with the Department of Transportation in carrying out the intent of the Act. If it should come to the attention of the Committee that the manufacturers are not recalling any vehicle or equipment which is defective or in violation of the Federal standards nad remedying these without charge, we will not hesitate immediately to initiate legislation which would require manufacturers to recall and remedy such vehicles and equipment, to be penalized by the Government for failure to do so immediately, and to require payment of punitive damages to owners whose vehicles contain safety defects or fail to comply with safety standards.

The Committee believes that the National Traffic and Motor Vehicle Safety Act is of vital importance to the Nation, and expects that its benefits will be even more evident in reducing the death and injury rate within the next several years. Assurance that defective or unsafe vehicles are not travelling on the highways is a critical part of the Act, and the Committee expects that the Department of Transportation and the automotive industry will work jointly to assure that the millions of vehicles on the highways are in the safest possible condition at all times.

TIRE DEFECT NOTIFICATION

The bill requires tire manufacturers, as vehicle manufacturers are already obligated under present law, to provide defect notification of defective or noncomplying tires. As Senate Report 91-559 makes clear, the motor vehicle manufacturers will continue to be responsible for safety defect notifications to owners of original equipment tires sold with new motor vehicles, while the tire manufacturers under this bill will be responsibe for notification to owners of aftermarket tires.

The bill also requires the motor vehicle and tire manufacturers to maintain records of the names and addresses of first purchasers so that the company is able to provide notification as the present law requires by certified mail. Language adopted by the conferees authorizes the Secretary to establish procedures under which distributors and dealers must assist manufacturers in securing the names and addresses of first purchasers on the condition that such procedures do not affect the basic obligation of the manufacturer to keep records. The purpose of this provision is to assure that dealers and distributors whose efforts are important and necessary in securing the names and addresses of first purchasers, will cooperate fully with the manufacturers. However, the Committee also expects the Department in its regulations to take care not to compromise the competitive position of these small businessmen in their dealings with the manufacturers, and expects that the Department will penalize manufacturers if the lists of purchasers are in any way used for commercial purposes by the manufacturers to the detriment of independent distributors or dealers.

FACILITIES

The Committee gave thorough consideration to the need for research and development facilities as well as Bureau compliance testing facilities. The Committee believes that the provisions in the bill as reported by the conferees will provide the Department with the maximum flexibility in rapidly designing and constructing the needed facilities. Thus, the bill, as reported, provides an unlimited authorization for the Secretary of Transportation to plan, design and construct facilities suitable to conduct research, development and compliance and other testing in traffic safety.

The burden now rests with the Secretary of Transportation to provide the Senate and House Committees and the Senate and House Public Works Committees with an appropriate prospectus of his plans for requesting appropriations for design and construction of these facilities. The Conference Committee is cognizant of the great need for testing facilities both for the purpose of developing standards and other research information as well as for assuring compliance with these standards. The conferees pledged that they will provide every assistance to the Secretary in securing passage of the resolutions called for in H.R. 12105 to expedite appropriations by the Congress. The conferees are anxious to assist the Secretary in dramatically reducing the enormous death and injury toll and stand ready to act on his own requests as soon as they are forwarded to the Congress.

WARNING OF RISKS IN OPERATION OF VEHICLES

The Department of Transportation's National Highway Traffic Safety Administration issued a special Consumer Protection Bulletin today, alerting motorists to potential risks in the operation of certain General Motors Corporation vehicles which may be subject to front engine mount failure.

Specifically involved in the risk "alert" are all 1965 through 1969 model year Chevrolets Novas, Chevelles, and Camaros.

The Traffic Safety Administration said the Consumer Protection Bulletin reflects the preliminary results of an intensive investigation that is still in progress to determine if a safety-related defect exists. The purpose of the alert is to warn owners of the potential hazard and to solicit further data for the investigation.

Owners of the Chevrolet models named in the Consumer Bulletin are advised to seek inspection by competent service personnel to determine the condition of engine mounts.

Engine mounts—two front and one rear—support the engine on the vehicle's frame and also serve to absorb noise and vibration. Failure of the left front engine mount may result in partial rotation of the engine within the engine compartment, during acceleration. Such failure may, in some cases, jam the accelerator and gear shift linkages and may also cause loss of power braking and power steering assist. The result is partial or total loss of vehicle control.

The Safety Agency said reports of engine mount failure, many of which involved loss of vehicle control, have been received from approximately 500 vehicle owners. There is evidence that many more such failures have occurred. Approximately 100,000 engine mounts have been replaced, for all causes, on 1965 through 1969 Chevrolet vehicles.

The failures noted occur when the engine mount (a "sandwich" composed of a layer of rubber bonded between two layers of metal) comes apart, allowing the upper and lower pieces to separate.

The Traffic Safety Administration recommends periodic inspection, and advises that replacement of defective or broken engine mounts is imperative. If an engine mount failure occurs while the vehicle is in use, the vehicle can be controlled by shifting into neutral (if possible), by turning off the ignition, and by braking.

Owners of all vehicles, regardless of manufacture, and including multipurpose vehicles and trucks, which experience engine mount failures are urged to report such failures to the National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590.

SPECIAL CONSUMER PROTECTION BULLETIN

(No. 2-71, October 15, 1971)

Subject: Alerting United States Motorists to specific use-risks in connection with the highway operation of certain General Motors Corporation vehicles which may be subject to front engine mount failure; and *inviting reports from motorists who experience such failures.*

General Motors vehicles potentially involved, according to current findings, are:

Year: 1965 through 1969.

Make: Chevrolet.

Model: Chevrolet, Nova, Chevelle, and Camaro.

Engine mounts—two front and one rear—serve to support the engine on the vehicle's frame and to absorb noise, vibration, and torque reaction forces generated during engine operation. Failure of the left front engine mount may result in partial rotation of the engine within the engine compartment, during acceleration. This lifting of the left side of the engine may, in some cases, jam the accelerator and gear shift linkages and may also cause loss of power braking and power steering assist. The result is partial or total loss of vehicle control.

Prior action background: Reports of engine mount failure, many of which have involved loss of vehicle control, have been received from approximately 500 vehicle owners. There is evidence that many more such failures have occurred. Approximately 100,000 engine mounts have been replaced, for all causes, on 1965 through 1969 Chevrolet vehicles.

Current conclusions: This Bulletin warns owners of the Chevrolet vehicles listed of the hazard which can result from engine mount failure. The failures noted occur when the engine mount (a "sandwich" composed of a layer of rubber bonded between two layers of metal) comes apart, allowing the upper and lower pieces to separate. Such failures can cause a loss of vehicle control as a result of jamming of engine control linkages and disconnection of power brake and power steering hoses.

Consumer action advised: Owners of the Chevrolet models listed should be alert to the possibility of engine mount failure. Inspection by competent service personnel will determine condition of mounts. Periodic inspection is advised, and replacement of defective or broken engine mounts is imperative. If an engine mount failure occurs while the vehicle is in operation, the vehicle can be controlled by shifting into neutral (if possible), by turning off the ignition, and by braking.

Consumer request: Owners of all vehicles, regardless of manufacture and including multipurpose vehicles and trucks, which experience engine mount failures, are urged to provide the Department of Transportation with a description of the failure and the make, model, model-year and serial number of the vehicle involved. This information is vital to the ongoing investigation of this matter and to the public safety. Such reports should be sent to:

National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

NOVEMBER 26, 1971.

HON. JOHN VOLPE,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: For over two years the National Highway Traffic Safety Administration (NHTSA) has been investigating defective engine mounts on Chevrolets, first on 1968 models, then on 1969 models, and most recently on 1965-1969 models. This matter came to my attention this summer when I received several consumer complaints describing the catastrophic consequences of broken engine mounts: a jammed accelerator, disengaged power brake vacuum house, and in some case a locked gear shift lever. The NHTSA was alerted to our concern on July 18, 1971, by Mr. Clarence Ditlow of my staff, and again on September 1, 1971, by my comprehensive letter to Mr. Douglas Toms, NHTSA Director.

The September 2 letter generated many letters from people who had experienced this defective behavior in Chevrolets and other General Motors cars. It also generated interest in further news stories which appeared throughout the months of October and November. Notable is the series by Mr. Robert Irvin which appeared in the Detroit News. As a result, I have received over 300 complaints concerning broken engine mounts on GM cars, mostly Chevrolets; Mr. Irvin has also received in excess of 300 complaints; the NHTSA has received at least 200 directly plus copies of hundreds of others; and General Motors has received at least 1500. The scope of the problem is also revealed in the statistic quoted from General Motors in early October 1971 that they had replaced under warranty alone some 100,000 engine mounts on 1965–1969 Chevrolets.

In recognition of the defective design of the Chevrolet engine mount, General Motors late in 1969 redesigned this item to include a metal interlock between the portion connected to the automobile's engine and the portion connected to the automobile's frame. This interlock prevents complete separation of the mount in the event of its failure, and precludes the possibility that the car will run amok, out of control, due to the failure. General Motors also recalled all of the old style mounts available on their dealers' shelves as replacement parts and substituted instead the newer, interlocking, type. The warranty for engine mounts on 1968 and 1969 models was unofficially extended beyond its normal duration, also in tacit recognition of the defect inhert in the design and construction of the engine mounts.

General Motors could have learned of this defect from at least two sources. First, the NHTSA, in response to a consumer complaint letter dated September 27, 1969, from Mr. Charles Combe, sent Information Request number 162 to General Motors on October 20, 1969. The letter questioned the company on the possibility of engine mount failure, and asked if General Motors has also received any letters concerning the defect on other 1968 Chevrolets. In its response of November 26, 19169, General Motors admitted the possibility of a defect, said that it had received fourteen similar complaints on engine mounts with jammed accelerators, but concluded that the problem could occur only under unusual circumstances and in limited numbers. The problem of jammed accelerators was not unknown to General Motors. At least one precedent was set in February 1969 when General Motors recalled 2.5 million cars with the defective fast idle cam on the Quadra jet carburetor which was causing the acelerator to jam. (It is interesting to note that there were only 48 known cases of failure at the time of this recall.

General Motors also learned of the engine mount defect from accidents involving these Chevrolets. For example, in June 1969 a 1969 Chevrolet sedan driven by an active 68 year old woman with her husband and two grandchildren as passsengers, suddenly, and without warning, accelerated out of control on a Boston street. It collided with a telephone pole after the woman maneuvered so as not to strike other cars on the road. The woman suffered a skull fracture which has caused her permanent blindness prematurely ending her very successful professional career as a real estate agent. The car was sold by the insurance company to a junk dealer who promised to sell it to her attorneys for $500. This sale was never consummated, however, because the car was acquired instead by the Royal Globe Indemnity Company, a company which insures General Motors. Although the car has now been examined by the plaintiff's attorneys, certain key parts, such as the engine mounts, were found mysteriously to be missing.

In October 1969, a Michigan woman was driving a new Camaro when it began to accelerate wildly out of control. The car spun around and was struck by another car in the right rear. The driver was injured, and her passenger killed. It was found that the engine mounts were broken.

After receiving the November 1969 reply from General Motors, which should have sparked further interest and questions in the engine mount investigation, the NHTSA engineers recommended in June 1970 that the investigation be discontinued because of the small number of complaints. Apparently no further attempt was made to determine the nature or the extent of the defect and its effect on vehicle safety. General Motors, in flagrant violation of the National Traffic and Motor Vehicle Safety Act of 1966, did not inform the NHTSA of other instances of engine mount failure in 1968 Chevrolets or other Chevrolets of similar design which subsequently came to its attention and did not initiate a safety defect notification campaign. They did, however, act in late 1969 to substitute the interlocking mount on the production line for the defectively designed mount.

During the intervening two years thousands of motorists have been frightened by the spectre of their cars suddenly roaring forward at full throttle with the brakes considerably reduced in effectiveness, and the gearshift jammed. Most were lucky to have been only frightened. The unlucky ones crashed, suffering property damage, injury and death. Both General Motors and the Department of Transportation share in the responsibility for this tragic situation in which the toll of human suffering is being needlessly expanded.

In November 1970, a 1969 Impala sped out of control in a way fully reminiscent of the 1969 Camaro case in Michigan. In this case, however, the driver was lucky to have sustained only major property damage as her car plowed into the guard rail separating the lanes of the highway.

In April 1971, two high school girls in Los Angeles, California, were crushed between a parked car and a runaway Camaro—a car on which the engine mount had broken causing the loss of control. In May, a service manager of a McAllen Texas Chevrolet garage was revving up the engine of a 1967 Chevelle from under the hood, in an effort to determine the source of the strange underhood noises. The car was in neutral, and the emergency brake was engaged, but when the mount separated, the car was pulled into gear, and lept forward, pinning the man between that car and the car ahead of it in the shop. In September, perhaps the most tragic accident of all occurred in the Virgin Islands. A 1968 Camaro convertible in which four children were being driven to school went out of control and crashed, killing all of the children. The car's engine mounts were found to have broken, causing the accelerator to jam open so that the driver, the mother of three of the children, could not control the car. Last month in Richmond, Virginia, a 1969 Camara went out of control after the engine mounts broke and crashed into a telephone pole. The passenger in the car is now a paraplegic as a result of his injuries. The owner had experienced engine mount failure previously, and after replacing the mounts had added a chain to prevent the engine from raising off the mounts should they break again. However, the force of the engine on its mountings was sufficient to break both the mount and the chain. Even more recently, a driverless runaway 1967 Chevrolet in Laredo, Texas, crashed completely through a school classroom, injuring 32 children, six so that they required hospitalization, and one critically. The car's engine mounts broke, causing the car to slip into gear and the accelerator to be held open, even though there was no one in the car as it sped into the school building.

These are examples of failures known to us. There are undoubtedly many many more unknown not only to us, but to owners as well. Indeed, most owners have stated that they initially thought the problem with their car was unique. How many times must these incidents be repeated before the Department acts?

When the Congress passed the National Traffic and Motor Vehicle Safety Act in 1966 the intent was to protect the public against the kind of corporate irresponsibility demonstrated by General Motors in the engine mount disaster by investing an agency of the government with substantial corrective power. Congress provided that, in the event of a refusal of a motor company to notify owners of safety defects, you are empowered to have such defects investigated, and to order the manufacturers to notify owners. Although you have delegated this function to the NHTSA, Office of Defects Investigation, their excessive tardiness in this case and callous disregard for the safety of owners and passengers of these defective vehicles makes it incumbent upon you to personally review the issues immediately so that owners of these cars may be notified by certified mail in accordance with the statute. In my opinion, this investigation has not been concluded within a reasonable time within the meaning of the Administrative Procedure Act.

Under the pressure of your action and complaints from thousands of owners, General Motors might also be awakened to their responsibility to repair the remaining defective Chevrolets at their expense. Time is of the essence. You must act to halt the spread of this mechanical epidemic which may afflict as many as one in ten cars now on the Nation's highways.

Sincerely,

RALPH NADER.

[From the Detroit News, Nov. 3, 1971]

GM SHOULD REPLACE MOUNTS, SAYS HADDON

(By Robert W. Irvin)

Dr. William Haddon Jr., who was the first Federal traffic safety chief, said today the government or the courts ought to force General Motors Corp. to recall several million 1965–69 Chevrolets to replace engine mounts.

At the same time, it was learned GM in recent weeks has received more than 1,500 complaints of engine mount failures, with close to 100 of these reportedly involving accidents.

That report came as a surprise to the National Highway Traffic Safety Administration (NHTSA), which thus far has received from GM only about 500 names of people who have registered engine mount complaints.

(The NHTSA is investigating engine mount failures to see whether a defect notice should be issued. It already has issued a consumer warning alerting people that the mounts could break, sending their cars out of control.)

GM said it has not forwarded any more complaints to the NHTSA after an initial batch in mid-October because government officials have not asked for them.

Informed there are 1,000 or more additional complaints at GM, an NHTSA spokesman promised, "We'll be asking for them—you're darn right."

The NHTSA said it has received 270 complaints from citizens, with about 10 percent involving accidents.

The Detroit News has forwarded to the NHTSA another 250 complaints it has received in the last month since it made public the problems of engine mount failures on late model Chevrolet-built cars.

GM said its complaint file, which includes those forwarded to the auto maker by The News, totaled 1,530 through the end of last week. It said "fewer than 100" involved reports of accidents.

Haddon, the first director of NHTSA and now president of the Washington-based Insurance Institute for Highway Safety (IIHS), made it plain in an interview that he thought something should be done about the engine mount failures.

"If the information as reported in the press is accurate, a recall with full repair at manufacturer's expense should be forced by either the executive branch of government or the courts," Haddon said.

"In addition, I believe Congress should take a very close look at the whole episode. It seems that the original safety statute is not tough enough to prevent what appears to be a failure to act in the public interest."

Haddon criticized the Chevrolet engine mount design of the 1960's. When the mount fails, it can allow the accelerator to jam open and cut off the power brakes, an NHTSA consumer bulletin says.

"I think the public will notice and question whether this, in fact, is sufficient excellence of engineering," Haddon said.

He took exception to a statement by GM President Edward N. Cole, who likened engine mount failures to a tire blowout at a low speed.

"I know I sure wouldn't want this to happen to a car I was driving or, even worse, to happen to a car coming the other way," Haddon said.

He also said, "We have no idea and we will never know what tragedy may have been caused by these so-called light blowouts.

"This appears to be a nationwide environmntal problem created by poor design."

He said the whole affair points up the need for not only a change in the federal safety law but also new administrative rules.

"One of the things which may be needed is a routine submission to the NHTSA or surveillance by the agency of claims against manufacturers' warranties," Haddon said. "There also should be surveillance of sales of replacement parts so problems can be more easily indentified."

[From the Detroit News, Nov. 17, 1971]

SAFETY CHIEF WILL PRESS FOR CORVAIR RECALL LAW

(By Robert W. Irvin)

President Nixon's traffic safety chief said today Congress should amend the safety law so the federal government can order auto makers to recall cars with defects, such as Corvairs with faulty heaters.

Douglas W. Toms made the comment after the National Highway Traffic Safety Administration (NHTSA) which he heads announced General Motors will issue a defect notice about Corvair heaters.

GM will advise 760,000 owners of 1961–69 Corvairs by certified mail of an NHTSA definding. The agency said the heaters on 1965 Corvairs could allow deadly carbon monoxide fumes to enter the passenger compartment. The other years' models are suspected of having the same problem.

But GM did not admit the cars are defective—only to pass on the NHTSA finding. And GM is not recalling the cars. While owners are urged to have the cars inspected, they must bear the cost of the checkup and any repairs to the cars.

Auto critic Ralph Nader and Senator Vance Hartke, Indiana Democrat, whose Senate subcommittee oversees the NHTSA, issued separate statements attacking GM for not recalling the cars and demanding a change in the safety law to give the agency the authority to order a callback.

Toms, interviewed in Detroit where he was attending a safety conference, agreed with Hartke and Nader. "We have asked for recall authority because we think it is necessary to do our job," he said. "We still believe that, but it is hard to say whether this case will lead to a change in the law."

As the Corvair case now stands, he said, "we have been able to achieve everything that the law permits us to do. There wasn't one single thing more we could have gotten out of this. We have gone the full extent of the legal remedy."

The case has been under investigation for more than a year. The NHTSA issued a consumer warning earlier this year and followed that up last month with an initial defect notice on the 1965 Corvairs.

It said samples of several hundred of these models disclosed high carbon monoxide concentrations which could impair a person's health and driving ability. The NHTSA was planning further tests on 1961–64 and 1966–69 Corvairs.

It also had scheduled a meeting with GM in Washington today on the matter. Then, Toms said, GM came in early yesterday "and agreed to send out defect notices. I was surprised because I had anticipated a fight."

Toms said "we are pleased that they agreed to do it at this time because the winter months of high car heater usage are approaching. We would much rather see the heaters fixed now then spend months more investigating the matter."

"The one thing GM refused to do was pay for repairs," Toms said. "We asked them to do that, but they were firm and there didn't appear any way of changing them. It would be nice if we could get these Corvairs repaired free of cost to the consumer but, as I said, we don't have the authority."

Toms agreed that GM's approach of sending out defect notices but refusing to make a recall was unprecedented. He said "this has got to affect GM's legal position. It's going to be very interesting to watch what class action suits develop. There already are many suits pending because of the heaters."

For its part, GM would say nothing. "We have no statement to make," a spokesman said.

However, the NHTSA said that in the defect letter "General Motors urges prompt inspection for Corvair owners who detect noticeable odors or an eye-burning sensation, especially when accompanied by a hissing or spitting noise from the engine. Prompt inspection is also urged for owners who notice any damage or deterioration to the exhaust system itself.

"Owners who detect these indicators are advised to shut off their heaters and roll down a window until inspection and-or repair can be effected."

The safety agency said it is now going to close the case. But Hartke and Nader indicated that, as far as they were concerned, the matter was still open.

"It is clear that massive litigation will be necessary on behalf of Corvair owners," said Nader, long-time foe of the Corvair. The rear engine car was dropped from production after it became embroiled in the safety controversy

Nader also said "the value of most of these 760,000 Corvairs remaining in service is less than $500 each. So they are generally owned by people in lower economic brackets. Mr. Toms has established that the correction of this defect will cost around $170 to repair, which is probably close to the wholesale value of most pre-1966 Corvairs.

"Thus, in order to guarantee his own safety, an owner must either pay for major repairs or lose his investment in his car. This is in his choice after years of driver and occupant exposure to these harmful emissions."

Hartke charged a double cross. He said the Senate in 1969 tried to give the NHTSA the recall authority missing in the original 1966 safety law. He said the Senate-passed bill "required auto companies to fix defects without charge."

But, Hartke added, "the House, in conference with the Senate, said the provision was unnecessary, arguing that the auto companies had pledged to fix defects without charge voluntarily. What treachery was worked upon the American people by the auto companies that day!

"I call upon General Motors to honor its promise and fix Corvair heaters without charge. If they do not, I pledge that I will work for immediate passage of legislation that will not only require them to repair a defective car without charge but will also impose a penalty upon them for producing such a car.

"The human tragedy played out on the highways of this nation each day should not be heightened by corporate decisions which protect profits at the expense of human life."

[From the Washington Post, Nov. 17, 1971]

GM To Warn All Owners of Corvairs

General Motors Corp. agreed yesterday to notify some 760,000 owners of Corvair automobiles, from the 1961 through the 1969 models, of possible heater system defects.

The manufacturer will advise Corvair owners to have the cars inspected by a Chevrolet dealer and repaired, if necessary, to eliminate dangerous fumes.

The inspections and repairs will be made at the expense of the owners unless warranty provisions are still in effect.

Secretary of Transportation John A. Volpe announced the agreement one day before a meeting at which General Motors was to have appeared with regard to an Oct. 29 finding of the National Highway Traffic Safety Administration that a safety defect existed in the engine heater system of Corvairs of the 1965 year model.

In view of the new development, the meeting was cancelled. General Motors disputed the findings, but agreed to issue the notice to all Corvair owners over the nine-year span.

The agency noted that it does not have the authority to compel a manufacturer to recall and repair motor vehicles free of charge.

"General Motors is doing more than the law requires it to do by agreeing to conduct a search for the names and addresses of all present Corvair owners rather than limiting its notice to first purchasers or warranty owners, as the law requires," said Douglas Toms, administrator of the agency.

"This is especially significant when talking about vehicles sold as long as 10 years ago."

Ralph Nader said last night that GM's move was intended to prevent the government from making "an imminent official finding of a safety defect," and to shift the cost of repair, an estimated $170, to the owners. Most Corvairs are worth less than $500 each, he said.

[From the Washington Star, Nov. 28, 1971]

United States Will Issue Notice of Defects in Chevrolets

(By Robert W. Irvin)

Detroit.—Federal safety officials have decided to issue a formal defect notice against engine mounts on some Chevrolet-built cars and they believe General Motors will recall and fix the vehicles, it was learned yesterday.

The officials also have broadened their investigation to include most other domestic makes of cars because of reports of engine mount failures on these models, too. Some of these also may be ruled defective.

The government action will cap an intensive probe by the National Highway Traffic Safety Administration.

Government investigators have concluded the engine mounts are a hazard on some late-model Chevrolets and possibly other makes because when they fail the accelerator can be jammed open, sending the car speeding out of control.

The NHTSA issued a consumer protection bulletin Oct. 15 warning 5.8 million owners of 1965–69 Chevrolet-built cars that the engine mounts could be hazardous.

CAN'T ORDER RECALL

The agency continued its investigation to see whether there was enough evidence to find the engine mounts defective and press GM for a recall. (The agency cannot actually order a recall, only order GM to send out a defect notice to owners.)

The NHTSA has now received some 2,000 complaints, including more than 100 cases where accidents resulted from engine mount failures. The agency also believes some people have been killed in some of these accidents, although no one is willing to estimate how many.

Douglas Toms, NHTSA administrator, said he has a meeting scheduled Tuesday with White House officials now in San Clemente, Calif., to go over the matter and he expects an announcement on the defects late in the week or early the following week.

Toms said he was sure some models of Chevrolets would be ruled to have defective motor mounts. "I am certain of that," he said, "but how far we go on some other makes and models hasn't been decided."

MANY FAILURES

"We are getting into almost all domestic makes because engine mount failure is a very common thing. I wouldn't venture to guess how many cars on the road have failed motor mounts but it's very high."

Toms had originally thought GM would fight any defect notice but has now changed his mind. "My personal opinion is that they are not going to fight us on the large engines. But they are not going to say anything until they find out what we recommend.

"They have a fix in mind—something to do to the existing engine mounts to make them fail-safe," he said. "They have suggested some alternatives but whatever they decide will be a permanent fix."

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Senate

Mr. MONDALE. Mr. President, the nominations of William H. Rehnquist and Lewis F. Powell, Jr., to the Supreme Court of the United States have now been favorably reported by the Senate Judiciary Committee. A strong dissent on the Rehnquist nomination was filed by Senators BAYH, HART, KENNEDY, and TUNNEY.

After a careful examination of the entire record, I have concluded that I can vote to confirm the nomination of Mr. Powell—but that I must vote against the nomination of Mr. Rehnquist.

In the press and the general public, past confirmation debates have been viewed as a clash between a Republican administration and a Democratic Senate. But it is simply incorrect to view the last two confirmation fights as a partisan controversy. Republicans and Democrats alike joined together to defeat the two individuals because of profound questions about their fitness to serve on the Supreme Court.

Those of us who opposed the Haynsworth and Carswell nominations viewed our constitutional duty to "advise and consent" as a serious responsibility—one that could not be shrugged off in deference to a President's power to nominate Supreme Court justices.

Throughout these earlier debates, this administration and its supporters have acted on the assumption that Supreme Court nominations are the prerogative of the President; that the Senate's role in confirming these nominations is limited to questions of the nominee's integrity, character, and competence; and that to the extent the Senate goes beyond these criteria, it is interfering with a constitutional grant of authority to the President.

I believe this view is wrong on several counts.

To begin with, there is ample historical evidence that the framers of our Constitution did not intend the Senate to be a mere rubber stamp in giving advice and consent for Supreme Court nominations. In fact, the debates in the Constitutional Convention show that initially Supreme Court justices were to be appointed by the Senate without any participation at all by the President. As Senator JAVITS and others have pointed out, the provision ultimately adopted—combining presidential nomination with Senate advice and consent—was a compromise from the earlier position. But the framers certainly expected that the Senate would perform a complete and careful review of every Supreme Court nomination.

Beyond this historical precedent, it is obvious that the stakes involved in confirming Supreme Court nominees demand this same type of review. A Supreme Court Justice does not serve at the will of the President nor does he hold office to carry out the policies of the President. He is a lifetime appointee to an independent branch of government—which is often asked to review the legality of both congressional and executive actions.

As Senators BAYH, HART, KENNEDY, and TUNNEY stated in their individual views to the Judiciary Committee report on these nominations:

> It is no longer necessary to belabor the Senate's coequal role in appointments to the Supreme Court. The President has said that, with the possible exception of promoting world peace, few of his acts are likely to have as lasting an impact upon the American people as his choice of nominees. The same can be said of their confirmation by the Senate. This thought merits reflection as we pause in the rush of legislation to perform that task again.

From the 1968 presidential campaign to the present time, President Nixon has repeatedly emphasized his desire to change the Supreme Court's philosophical orientation and to mold the Court in a fashion acceptable to him.

I do not claim that this President—or any other President—is acting improperly by using his power to nominate Supreme Court Justices in this manner. That is his prerogative; and there is nothing in the Constitution which prevents him from doing so.

But it must be recognized that when the President himself has made a nominee's philosophy the prime issue for consideration, the Senate has a duty to carefully examine the philosophy of each of his nominees.

Prof. Charles L. Black of the Yale University Law School, one of our most distinguished constitutional scholars, best expressed the challenge facing the Senate in these situations.

He wrote:

> If a President should desire and if chance should give him the opportunity to change entirely the character of the Supreme Court, shaping it after his own political image, nothing would stand in his way except the United States Senate.

After a careful review of the historical evidence, Professor Black reached the following conclusion about the proper role of the Senate in the confirmation of Supreme Court nominees:

> A Senator voting on a presidential nomination to the Court, not only may but generally ought to vote in the negative, if he firmly believes, on reasonable grounds, that the nominee's views on the large issues of the day will make it harmful to the country for him to sit and vote on the Court, and that, on the other hand, no Senator is obligated simply to follow the President's lead in this regard, or can rightly discharge his own duty by so doing.

A similar conclusion was reached by Profs. Paul Brest, Thomas Gray, and Arnold Paul in a memorandum analyzing the proper scope of the Senate's inquiry into the political and constitutional philosophy of Supreme Court nominees. These scholars concluded:

> First, it is the Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values of our Constitution—the rule of law, the liberty of the individual, and the equality of all persons.
>
> Second, the Senate should consider a nominee, not in isolation but in the context of the President's other nominations, past and promised; and that the Senate performs a proper constitutional role in preventing the Chief Executive from distorting the Court in his own image.

The dissenting members of the Judiciary Committee accepted this view of the Senate's confirmation role. They stated:

> Under any theory of the Senate's task, our role inescapably includes weighing the nominee's attitude toward the fundamental values of our constitutional system: limits on government power, individual liberty, human equality. A man takes what he is, and believes, to the bench. Ultimately, it may be less important to debate the meaning of judicial philosophy than simply to acknowledge the inherent strand of discretion in judicial decision—especially Constitutional interpretation. The best intentions of restraint cannot erase the elements of value and judgment involved when the Court applies the majestic generalities of the Fourteenth Amendment and the Bill of Rights.

And Senator George Norris of Nebraska, during the debate over the Supreme Court nomination of Judge John J. Parker, eloquently argued that the Senate must not be oblivious to a nominee's philosophy and beliefs:

> When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of the qualifications—but we ought to know how he approaches the great questions of human liberty.

The President may have a very clear idea of the type of Court he wants in the future—but individual Senators may not share his particular vision.

Those who disagree with the President have the right and the obligation to probe the philosophy of his nominees—and to make an individual and independent evaluation of the nominee's views on important legal issues. This is really what the separation of powers is all about.

What we have here is one branch of Government submitting nominations to another branch of Government designed to alter the course of a third branch of Government. If the Senate simply limits itself to an inquiry into a nominee's competence and integrity—without considering the nominee's philosophy—the Executive alone will determine the future of the Court while the Senate sits passively on the sidelines.

Whether the Senate will meet its constitutional responsibilities is the issue posed by the nominations of Lewis Powell and William H. Rehnquist.

From the record of the Senate Judiciary Committee hearings and other sources, each of these men appears qualified to serve as Supreme Court Justices on the basis of legal competence and personal integrity. But since the President has emphasized the philosophy of each of these nominees in making his selections, the Senate must carefully evaluate their past and present views on important legal issues.

It was because of such an evaluation that I decided to vote for Mr. Powell's confirmation and to oppose the nomination of Mr. Rehnquist.

It may be argued that this is an inconsistent position; that since both men are considered conservatives, an individual Senator cannot vote for one and vote against the other.

But in evaluating a nominee's philosophy, labels are not very helpful. There must be a careful examination of the nominee's entire public record, including his expressions and views on major issues.

Such an examination convinces me that William Rehnquist should not be confirmed.

In their individual views, Senators BAYH, HART, KENNEDY, and TUNNEY aptly summarized the case against Mr. Rehnquist:

> William Rehnquist's record presents no threshold problem of integrity or excellence. But it does raise serious doubts about his sensitivity and commitment [to the protection of individual liberties and equal rights]. His numerous public positions on issues involving the Bill of Rights display a consistent discounting of those rights—an inadequate appreciation of the underlying interests at stake and of the danger of their erosion.

What I find most disturbing about Mr. Rehnquist's record is his attitude toward the use of the law for the protection of minority rights. The nominee's record demonstrates a persistent insensitivity and indifference to human rights. During a period when this country has tried to ensure equality under the law, Mr. Rehnquist often went out of his way to oppose legal efforts to end various types of racial discrimination.

A memorandum filed by the dissenting members of the Judiciary Committee documents the nominee's record on important civil rights issues. There are two incidents which I believe most clearly indicate Mr. Rehnquist's firm belief that the law should not be used to eliminate racial injustice in America.

In June, 1964, the nominee vigorously opposed a proposed Phoenix ordinance barring discrimination in places of public accommodation. After the ordinance was passed unanimously by the city council, Mr. Rehnquist wrote a letter to the Arizona Republic in which he concluded that it was: "Impossible to justify the sacrifice of our historic individual freedom for a purpose such as this."

To Mr. Rehnquist, property rights were clearly more important than human rights. Fortunately, neither the Phoenix City Council nor the Congress shared his views.

In 1966, while representing Arizona at the National Conference of Commissioners on Uniform State Laws, Mr. Rehnquist made an unsuccessful effort to delete two key provisions of a proposed model State Anti-Discrimination Act.

According to the records of this Conference, the first of these provisions was "designed to permit the adoption by an employer of voluntary plans to reduce or eliminate" racial, religious, or sex imbalance in its workforce. Despite the fact that no compulsory hiring to achieve racial balance was involved, Mr. Rehnquist moved to delete this provision. His motion was defeated.

The second provision opposed by Mr. Rehnquist was designed to prohibit "blockbusing" tactics—used by unscrupulous realtors to play on racial fears for their own profit. In moving to delete this provision, Mr. Rehnquist observed:

> It seems to me we have a constitutional question and a serious policy question, and in view of the combination of these two factors, plus the fact that it doesn't strike me this is a vital part of your bill at all, I think this would be a good thing to leave out.

Mr. Robert Braucher, now a justice of the Supreme Judicial Court of Massachusetts, opposed the Rehnquist motion and defended the outlawing of blockbusting:

> The practices that are dealt with in this provision are practices that have no merit whatever. They are vicious, evil, nasty, and bad. These are people who go around—and this is not a hypothetical situation; this is something that has happened in every big city in the United States—and run up a scare campaign to try to depress the value of real estate. They will, if possible, buy one house, and then they will throw garbage out on the street; they will put up "For Sale" signs; they go around to the neighbors and say: "Wouldn't you like to sell before the bottom drops out of your market?"
>
> And the notion that type of conduct should be entitled to some kind of protection under the bans of free speech is a thing which doesn't appeal to me a tiny bit.

Again, the Rehnquist effort to dilute this model act was defeated.

These episodes, and others cited in the memorandum submitted by Senators BAYH, HART, KENNEDY, and TUNNEY, raise serious doubts about Mr. Rehnquist's commitment to ending discrimination in America through legal means. Mr. Rehnquist seems to believe that the law must be neutral in these matters—even though such neutrality will inevitably result in the perpetuation of racial discrimination.

Some will argue that Mr. Rehnquist's views on these civile rights issues is a logical result of his belief as a "conservative" in the limited power of Government. If this were true—if Mr. Rehnquist consistently came down on the side of limiting Government's power over the actions of private citizens—then I would tend to view the Rehnquist civil rights record in a different light.

But this is not the case. Throughout his career—and while serving as an Assistant Attorney General—Mr. Rehnquist has consistently advocated strong Government action to the detriment of individual rights on issues involving surveillance of private citizens, wiretapping, criminal procedural safeguards, and dissent by public employees.

Thus, the nominee has staunchly defended the administration's position on wiretapping, arguing that the Attorney General may wiretap without prior judicial authorization whenever he concludes that there is a threat to national security either from foreign agents or from "domestic subversives."

The nominee has advocated and defended extensive Government surveillance of individual citizens, arguing that:

> Self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering.

And in the past, he has strongly attacked the Supreme Court for decisions holding that individuals could not be prevented from practicing law because of previous political beliefs.

After reviewing his record on a variety of civil liberties issues, the Ripon Society, a progressive Republican organization, concluded that Mr. Rehnquist's confirmation would be 'a dangerous mistake." They argued that:

> Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an airmist fear: that we are moving into an era of repression. The entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited.

Thus, when it comes to interests which he believes are important—such as widespread surveillance of private citizens—Mr. Rehnquist takes an expansive view of government power; but where elimination of racial discrimination is the interest involved, Mr. Rehnquist suddenly becomes a "conservative," arguing that the power of government must be limited.

William Shannon put it best when he observed that:

> The Rehnquist record is not that of a true conservative. It is the record of an aggressive ideologue with combative impulses and strong commitment to a harsh, narrow doctrine concerning government and individual.

Mr. Rehnquist's strict adherence to a particular idealogy is in sharp contrast to the record of the other nominee before the Senate—Lewis F. Powell. Throughout his career, Mr. Powell has displayed on open-mindedness on major issues which is absent in the Rehnquist record.

This does not mean that I agree with everything Mr. Powell has said or done during the course of his career. On the contrary, I disagree with his position on several basic issues. For example, he has expressed views on wiretapping similar to those of Mr. Rehnquist which I find most disturbing.

But the total record indicates that Mr. Powell is not an aggressive idealog—that he is, in short, what William Shannon called a true conservative in the tradition of Justice Harlan.

There is one important aspect of Mr. Powell's career which demonstrates this open-mindedness—and indicates a sensitivity to and concern for the rights of the poor and the powerless in this country.

In 1965, OEO wanted to establish a national legal services program to vastly expand legal representation for the poor. Crucial to the creation of this program was the support of the organized bar—and particularly the ABA.

Mr. Powell was president of the ABA at that time. And in that capacity, he was among those most instrumental in convincing the ABA of the vital need for this program—and of the necessity for strong ABA support.

As a result of his leadership, the program was established—and in its brief existence, it has managed to protect the rights of millions of Americans previously unable to obtain legal assistance.

And whenever that program's lawyers have come under attack for providing effective legal representation to their clients, Mr. Powell has consistently come to their defense—arguing that the independence and integrity of these lawyers must be insured if the poor are really to receive equal representation under the law.

There is no question that without the strong support of Mr. Powell and other leaders of the organized bar, the ability of legal services lawyers to provide full and effective legal representation would have been severely restricted. Instead, the program is still a viable one—and many of this Nation's poor are, for the first time, beginning to have faith in the law and legal institutions.

Because of Mr. Powell's clear commitment to the principle of affording equal representation under the law—and because of the lack of dogma in his views on important issues—I have concluded that his nomination to the Court should be confirmed.

But I cannot find these redeeming qualities in Mr. Rehnquist's record. His is a commitment not to a broadening of human rights—but to their circumscription. His is a record not of growth and enrichment in public service—but of narrow ideological instincts.

These are not easy distinctions for any of us to make. As with judgments of integrity and intellectual competence, evaluations of a nominee's philosophy cannot be infallible. But I am convinced that the Constitution and the public interest charge us to make the best judgments we can.

It is on that basis that I will vote for Mr. Powell and oppose Mr. Rehnquist.

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