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COMPLETE TEXT OF THE CHILD AND FAMILY SERVICES ACT OF 1975, S. 626. REPRINTED FROM PAGES S1641 TO S1648 OF THE FEBRUARY 7, 1975, CONGRESSIONAL RECORD.

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Senate

S. 626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child and Family Services Act of 1975".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the family is the primary and the most fundamental influence on children;

(2) child and family service programs must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents or legal guardians request such services, with a view toward offering families the options they believe are most appropriate for their particular needs;

(3) although there have been increased services for children of working mothers and single parents and although Headstart and similar programs have provided supplemental educational and other services for children, such services have not been made available to families to the extent that parents consider necessary, there are many other children whose parents are working full or part time without adequate arrangements for their children, and there are many children whose families lack sufficient resources who do not receive adequate health, nutritional, educational and other services;

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

(b) It is the purpose of this Act to provide a variety of quality and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest economic or human needs, in a manner designed to strengthen family life and to insure decisionmaking at the community level, with direct participation of the parents of the children served and other individuals and organizations in the community interested in child and family service (making the best possible use of public and private resources), through a partnership of parents, State and local government and the Federal Government, building upon the experience and success of Headstart and other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) For the purpose of providing training, technical assistace, planning, and such other activities as the Secretary deems necessary and appropriate to plan for the implementation of this Act, there is authorized to be appropriated $150,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for the fiscal year ending June 30, 1977, to be allocated as prescribed in section 103.

(b) There is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1977, and $1,000,000,000 for the fiscal year ending June 30, 1978, except that no funds are authorized to be appropriated for either fiscal year, unless funds appropriated to carry out the Project Headstart program described in section 222(a)(1) of the Economic Opportunity Act of 1964 for such years, or for any successor program are at least equal to the greater of (1) the amount appropriated to carry out such program for the fiscal year ending June 30, 1975, or (2) the amount appropriated to carry out such program for the fiscal year ending June 30, 1976. Any such amounts appropriated for a fiscal year which are not obligated at the end of such fiscal year shall remain available for obligation until expended.

FORWARD FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act such funding for grants, contracts, or other payments under this Act is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which it shall be 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.

TITLE I—CHILD AND FAMILY SERVICE PROGRAMS

OFFICE OF CHILD AND FAMILY SERVICES; SPECIAL COORDINATING COUNCIL

SEC. 101. (a) The Security shall take all necessary action to coordinate child and family service programs under his jurisdiction. To this end, he shall establish and maintain within the Office of the Secretary of the Departent of Health, Education, and Welfare an Office of Child and Family Services administered by a Director appointed by the President with the advice and consent of the Senate, which office shall assume the responsibilities of the Office of Child Development and shall be the principal agency of the Department for the administration of this Act.

(b) A Child and Family Services Coordinating Council, consisting of the Director of the Office of Child and Family Services established under subsection (a) (who shall serve as chairperson), 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 Education, 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 on a regular basis, as they may deem necessary, in order to assure coordination of child and family service activities under their respective jurisdictions so as to assure—

(1) maximum use 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 achievment of the purposes of this Act;

(3) the establishment and maintenance of procedures to insure that each office or agency of the Federal Government conducting chld and family services and related activities is aware of the administrative actions of other offices or agencies with respect to the provision of financial assistance to eligible applicants; and

(4) recommendation of priorities for federally funded research and development activities related to the purposes of this Act.

FINANCIAL ASSISTANCE

SEC. 102. (a) The Secretary of Health, Education, and Welfare through the Office of Child and Family Services, shall provide financial assistance for carrying out child and family service programs for children and their families under this title to prime sponsors (including educational agencies) and to other public and private nonprofit agencies and organizations pursuant to applications and plans approved in accordance with the provisions of this title.

(b) Funds available for this title may be used (in accordance with approved applications and plans) for the following services and activities:

(1) planning and developing child and family service programs;

(2) establishing, maintaining, and operating child and family service programs, which may include—

(A) part-day or full-day child care programs, in the child's own home, in group homes, or in other child care facilities, which provide the educational, health, nutritional, and social services directed toward enabling children participating in the program to attain their maximum potential;

(B) other health, social, recreational, and educational programs designed to meet the special needs of children and families including before- and after-school and summer programs;

(C) family services, including in-home and in-school services, and education and consultation for parents, other family members functioning in the capacity of parents, youth, and prospective and expectant parents who request assistance in meeting the needs of their children;

(D) social services including information, consultation and referral to families that request such services to help them determine the appropriateness of child and family services and the possibility of alternative plans;

(E)(1) prenatal and other medical care including 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 (ii) postpartum and other medical services to recent mothers;

(F) programs designed (i) to meet the special needs of ethnic groups, including minority groups, Indian, migrant children, and children from families with special language needs, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of ethnic groups including minority groups which belong to their communities and the role of members of such groups in the history and cultural development of the nation and the region in which they reside;

(G) food and nutritional services;

(H) diagnosis, identification, and treatment of visual, hearing, speech, medical, dental, nutritional, and other physical, mental, psychological and emotional barriers to full participation in child and family service programs;

(I) special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities as an incorporated part of programs conducted under this title;

(J) programs designed to extend child and family service gains (particularly parent participation) into kindergarten and early primary grades, in cooperation with local educational agencies;

(K) other such services and activities as the Secretary deems appropriate in furtherance of the purposes of the Act;

(3) rental, lease or lease-purchase, mortgage amortization payments, remodeling, renovation, alteration, acquisition and maintenance of necessary equipment and supplies, and to the extent authorized in section 109, construction or acquisition of facilities, including mobile facilities;

(4) preservice and inservice education and training for professional and paraprofessional personnel, including parents and volunteers, especially education and training for career development and advancement;

(5) staff and other administrative expenses of child and family service councils established and operated in accordance with section 105, and of parent policy committees established and operated in accordance with section 107; and

(6) dissemination of information in the functional language of those to be served to assure that parents are well informed of child and family service programs available to them and may participate in such programs.

(c) Assistance under this title shall be made only for a program which

(1) provides for establishing and maintaining a parent policy committee to be composed of parents of children served by such program, which shall directly participate in the development and operation of such program (as described in section 107),

(2) provides for the regular and frequent dissemination of information to assure that parents of children served by such program are fully informed of program activities, and

(3) provides for regular consultation with the parents of each child regarding their child or children's development, with ample opportunity for such parents to observe and participate in their children's activities.

SEC. 103. (a)(1) From the amounts available for planning and carrying out child and family service programs under this title the Secretary shall reserve the following:

(A) 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 102(b)(2)(I) of this title (relating to special activities for handicapped children.).

(B) not less than that proportion of the total amount available for carrying out this title 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;

(C) not less than that proportion of the total amount available for carrying out this title 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;

(D) not more than 5 per centum of the total amount available for carrying out this title, which shall be made available under section 104(e)(2) of this title (relating to model programs);

(E) not less than 5 per centum of the total amount available for carrying out this title, for the purposes of section 203 of this Act (relating to monitoring and enforcement of standards).

(2) The Secretary shall allocate the remainder of the amounts available for this title, among the States and within the States among local areas, so as to provide, to the extent practicable, for the geographical distribution of such remainder in such a manner that—

(A) 50 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of economically disadvantaged children in each State and local area, respectively;

(B) 25 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of children through age five in each State and local area, respectively; and

(C) 25 per centum thereof shall be apportioned among the States, and within each State among local areas, in proportion to the relative number of children of working mothers and single parents in each State and local area, respectively.

For the purposes of clauses (A), (B), and (C) of this paragraph, there shall be excluded those children who are counted under clauses (B) and (C) of subsection (a)(1) of this section.

(b) Not more than 5 per centum of the total funds apportioned for use within a State pursuant to subsection (a)(2) may be made available for grants to the State to carry out the provisions of section 108 of this title.

(c) Any portion of any apportionment under subsection (a) for a fiscal year which the Secretary determines after notice to the States and local areas involved will not be required, for the period for which such apportionment is available, for carrying out programs under this title shall be available for reapportionment from time to time, on such dates during such period as the Secretary shall fix to other States or local areas on an equitable basis, taking into account the original apportionments to the States and local areas. Any amount reapportioned to a State or local area under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

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

(e) 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 allocations and apportionments required by this section.

STATE AND LOCAL PRIME SPONSORS

SEC. 104. (a) In accordance with the provisions of this section, a State, locality, or combination of localities 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 programs under this title, upon the approval by the Secretary of an application for prime sponsorship which—

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

(2) demonstrates the applicant's capability of administering a child and family service program meeting the requirements of this title, including the coordination of delivery of services within the prime sponsorship area of other public agencies operating programs relating to child care necessary for efficient delivery of services under this Act;

(3) provides assurances satisfactory to the Secretary that the non-Federal share requirements of the Act will be met;

(4) sets forth satisfactory provisions for establishing and maintaining a Child and Family Service Council which meets the requirements of section 105;

(5) provides that the prime sponsor shall be responsible for developing and preparing for each fiscal year a plan in accordance with section 106 and any modification thereof and for selecting or establishing an agency or agencies to administer and coordinate child and family service programs in the prime sponsorship area;

(6) sets forth arrangements under which the Child and Family Service Council will be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of any agency or agencies under paragraph (5) of this subsection and will be responsible for annual and ongoing evaluation of child and family service programs conducted in the prime sponsorship area according to criteria established by the Secretary;

(7) provides assurances that staff and other administrative expenses for the Child and Family Service Councils and Local Program Councils and Project Policy Committees will not exceed 5 per centum of the total cost of child and family service programs administered by the prime sponsors unless such per centum limitation is increased to give special consideration to initial cost in the first operational year, in accordance with regulations which the Secretary shall prescribe;

(b) The Secretary shall approve a prime sponsorship application submitted by a locality which is a (1) city, (2) county, or (3) other unit of general local government, or by a combination of such localities, if he determines that the application so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive and effective child and family service 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 determines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted an application which meets the requirements of this section and includes adequate provisions for carrying out comprehensive child care and family service programs in such area.

(c) The Secretary shall approve a prime sponsorship plan submitted by a State, except for areas with respect to which local prime sponsors are or will be otherwise designated pursuant to this section, if he determines that the plan so submitted meets the requirements of this section and sets forth adequate arrangements for serving all geographical areas under its jurisdiction, and that the plan:

(1) meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out child and family services programs in each such area;

(2) divides those areas within the State for which no prime sponsor has been designated under subsection (b) of this section into local service areas, with due consideration in making such decisions being given to compactness, contiguity, and community of interest;

(3) provides:

(A) for establishing and maintaining with respect to each local service area a local program council composed so that (i) not less than half of the members who shall be chosen initially by parents who are recipients of federally assisted day care services, with equitable and appropriate consideration to parents selected by the parent members of Headstart policy committees where they exist, and at the earliest practicable times by the parent members of parent policy committees, and (ii) the remainder shall be public members broadly representative of the general public, appointed by the chief executive officers or the governing bodies, as appropriate, of the units of general local government within the local program area;

(B) that the comprehensive child care and family service plan to be submitted by the State which affects each such area is developed and prepared with the full participation and approval of the appropriate local program council; and

(C) that contracts for the operation of programs through public or private nonprofit agencies or organizations shall be entered into only if previously approved by the local program council for the appropriate local service area; and

(4) contains assurances that any local program council may appeal directly to the Secretary whenever such council alleges that with respect to its portion of the child and family service plan the State has failed to comply with the provisions of such plan or the provisions of the Act.

(d) In addition to prime sponsors designated under subsections (a), (b), and (c) of this section, the Secretary may fund directly:

(1) an Indian tribe on a Federal or State reservation if he determines that such Indian tribe has the capacity to carry out child and family service programs in the area to be served;

(2) a public or private nonprofit agency, including but not limited to an educational agency or institution, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, employer organization, labor union, or employee or labor-management organization, which submits a proposal:

(A) to provide child care and family services in an area possessing a commonality of interest where no prime sponsor has been designated, or where the prime sponsor is found not to be satisfactorily implementing child and family service programs;

(B) to provide child and family service programs on a year-round basis to children of migrant agricultural workers and their families; or

(C) to carry out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual children and their families.

(e) When any prime sponsor is maintaining a pattern or practice of discrimination against minority group children or economically disadvantaged children, the Secretary shall designate for prime sponsorship an alternative unit of government of public or private agency or organization in the area which will equitably serve minority group children and economically disadvantaged children.

(f) The Governor shall be given not less than thirty nor more than sixty days to review applications for prime sponsorship designation submitted by any applicant within the State other than the State, to offer recommendations to the applicant, and to submit comments to the Secretary.

(g) A prime sponsorship application 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 application, including a statement of the reasons therefor, (2) a reasonable time in which to submit corrective amendments to such application 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.

(h)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its application 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 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.

CHILD AND FAMILY SERVICE COUNCILS

SEC. 105. (a) Each prime sponsor designated under section 104 shall establish and maintain a Child and Family Service Council composed of not less than ten members as follows—

(1) not less than half the members of such Council shall be parents of children served in programs under this Act chosen in accordance with the provisions of paragraph (1) of subsection (b) of this section;

(2) the remaining members shall be appointed by the prime sponsor, in consultation with the parent members described in paragraph (1) to be broadly representative of the general public, including representatives of private agencies and organizations

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concerned with or operating programs relating to child and family services and at least one person who is particularly skilled by virtue of training or experience in child and family services;

(3) at least one-third of the total membership of the Child and Family Service Council shall be persons who are economically disadvantaged. Each Council shall select its own chairperson; and

(4) in establishing a Child Development and Family Service Council under this section, the prime sponsor shall give due consideration to the membership of child care and day care coordinating bodies then existing in the area to be served.

(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 104 shall provide, with respect to the Child and Family Service Councils established and maintained by such prime sponsor, that—

(1) the parent members described in paragraph (1) of subsection (a) of this section shall be democratically selected by parents as follows:

(A) in the case of Councils established by prime sponsors which are States, by the parent members of local program councils established under section 104(c)(3); and

(B) in the case of Councils established by prime sponsors other than States (and by States with respect to local program councils), initially by parents who are recipients of federally assisted child care services, with equitable and appropriate consideration to parents selected by the parent members of Headstart policy committees and, at the earliest practicable time, by the parent members of parent policy commitees established under section 107(b)(2);

(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 Act;

(3) such Council shall be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of an administering agency or agencies and will be responsible for annual and ongoing evaluation of child and family service programs according to criteria established by the Secretary; 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.

CHILD AND FAMILY SERVICE PLANS

SEC. 106. (a) Financial assistance under this title may be provided by the Secretary for fiscal year 1976 and any subsequent fiscal year to a prime sponsor designated pursuant to section 104 only pursuant to a child and family service plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this title.

(b) Any such plan shall set forth a program for providing child and family service in the prime sponsorship area which—

(1) provides that programs or services under this title shall be provided only for children whose parents request them;

(2) identifies child and family service needs and goals within the area and describes the purposes for which the financial assistance will be used, giving equitable consideration to the needs of children from each minority group and significant segment of the economically disadvantaged residing within the prime sponsorship area;

(3) meets the needs of children and families in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, with priority for services to children who have not attained six years of age;

(4) provides that programs receiving funds under section 3(b) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of such funds for the purpose of serving economically disadvantaged children;

(5) gives priority thereafter to providing services to children of working mothers and single parents not covered under paragraph (4);

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

(7)(A) provides that no charge will be made with respect to any child who is economically disadvantaged, except to the extent that payment will be made by a third party; and

(B) provides, pursuant to criteria established in regulations promulgated by the Secretary as required by section 205, an appropriate and flexible fee schedule for children who are not economically disadvantaged, designed to permit enrollment or continued participation in the program as family income increases and based upon the size of the family, and its ability to pay, which shall provide for appropriately reduced charges for less than full day care, and shall provide that payment may be made in whole

(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 the 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 within the prime sponsorship area;

(9) provides for direct parent participation in the conduct, overall direction, and evaluation of porgrams;

(10) provides that, insofar as possible, unemployed or low-income persons residing in communities being served by such projects will be employed therein, including in-home and part-time employment and opportunities for training and career development, provided that no person will be denied employment in any program solely on the grounds that such person fails to meet State or local teacher certification standards;

(11) includes a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

(12) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and other interested persons in the community are fully informed of the actviities of the prime sponsor, Child and Family Service Council, project applicants, and parent policy committees;

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

(14) provides procedures for the approval of project applications submitted in accordance with section 107, including procedures for priority consideration of applications submitted by public and private nonprofit agencies and organizations with ongoing child development programs;

(15) 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 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;

(16) provides for coordination of other child care and related programs (including those relating to manpower training and employment) within the prime sponsorship area with the programs assisted under this Act, including procedures and mechanisms to provide continuity between programs for preschool and elementary school children;

(17) provides for such monitoring and evaluation procedures including licensing, inspection, and enforcement activities as may be necessary to assure that programs in the prime sponsorship area funded under this Act meet the applicable Federal standards as prescribed in section 201 of this Act;

(18) provides, to the extent practicable, for the use of financial assistance and services available from State and local government, Federal sources other than those provided in this Act, and private charitable sources with respect to activities and services under the plan; and

(19) 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.

(c) No child and family service 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) the 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;

(2) each community action agency or single-purpose Headstart agency in the area to be served 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;

(3) in the case of a plan submitted by a prime sponsor other than the State, the Governor of that State or the State Child and Family Service Council has had an opportunity to submit comments to the prime sponsor and to the Secretary.

(d) A comprehensive child and family service 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 therefor,

(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.

PROJECT APPLICATIONS

SEC. 107. (a) Funds may be provided by the prime sponsor for carrying out any program under such prime sponsor's comprehensive child and family service plan only to a qualified public or private agency or organization, including but not limited to an educational agency or institution, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, organization interested in child care, employer or business organization, labor union, or employee or labor management organization.

(b) Financial assistance under this title may be provided to a project applicant for any fiscal year only pursuant to a project application which is submited to the Child and Family Service Council by a public or private agency and which—

(1) describes the project, identifies the children and families it is designed to serve, and provides for the necessary such comprehensive services.

(2) provides for establishing and maintaining a parent policy committee composed of not less than ten members as follows—

(A) not less than half of the members of each such committee shall be parents of children served by such project, democratically selected by parents of children served by the 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 care, child health, child welfare, or other child care services, except that the Secretary may waive the requirement of this clause where he determines, in accordance with regulations that such persons are not available to the area to be served;

(3) provides for direct participation of such parent policy committee in the development and preparation of project applications under this title;

(4) assures that the parent policy committee shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, and for planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects, including approval of the project director and any project applications and modifications thereof;

(5) makes adequate provision for training and other administrative expenses of such parent policy committee (including necessary expenses to enable low-income members to participate in committee meetings);

(6) assures that services shall be provided without charge to any child who is economically disadvantaged except to the extent that payment will be made by a third party, and that charges will be made to any child who is not economically disadvantaged according to the fee schedule established pursuant to section 106(b)(7)(B);

(7) 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 are fully informed of project activities;

(8) provides opportunities for the direct participation of parents, older siblings, and other family members in the daily activities of the programs in which their children are enrolled;

(9) assures, to the extent practicable, employment of paraprofessional aides and use of volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child development and family service programs;

(10) assures that children will in no case be excluded from the programs operated pursuant to this title 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;

(11) provides for such fiscal control and fund accounting procedures as the prime sponsor shall prescribe to assure proper disbursement of and accounting for Federal funds.

(c) 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 and family service plan as approved pursuant to section 106.

(d) A project application from a public or private agency seeking funds under section 104(d) shall be submitted directly to

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the Secretary, and may be approved by the Secretary upon his determination that it meets the requirements of subsection (b) of this section.

(e) A prime sponsor may disapprove a project application only if it provides to the project applicant a written statement of the reasons therefor. Such project applicant may submit an appeal to the Secretary requesting the direct approval of such application or modification thereof. Any such appeal shall include such comments, including the project applicant's response to the prime sponsor's statement of reasons for disapproval, as the project applicant may deem appropriate or as the Secretary may require.

SPECIAL GRANTS TO STATES

SEC. 108. (a) 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) establishing a child and family services information program, in order to improve their quality and availability and improve the accessibility of such services to parents who need them;

(2) identifying child and family service goals and needs within the State;

(3) coordinating all State child and family services, and encouraging the cooperation and participation of State agencies in providing such 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 and family service plans;

(4) encouraging the full use of resources and facilities for child and family service programs within the State;

(5) developing, enforcing, and assessing State codes for licensing child and family service facilities within the State;

(6) assisting public and private agencies and organizations in the acquisition or improvement of facilities for child and family service programs;

(7) assisting in the establishment of Child and Family Service Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child and family service programs;

(8) developing information useful in reviewing prime sponsorship applications under section 104 and of comprehensive child and family service plans under section 106.

(b) In order to receive funds under this section, a State shall establish a Child and Family Service Council as prescribed in section 104(a).

(c) Funds received by the State under this section shall be in addition to any funds such State may receive under this title pursuant to an approved prime sponsorship application and comprehensive child and family service plan.

ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION OF ACQUISITION

SEC. 109. (a) Applications for financial assistance for projects including construction or acquisition may be approved only if the prime sponsor, or the Secretary in cases of applications submitted for his approval, determines that construction or acquisition of such facilities is essential to the provision of adequate child care services, and that rental, lease, or lease-purchase, remodeling, or renovation of adequate facilities is not practicable.

(b) If any facility assisted under this title 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 title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C 276a–276a–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 loan shall be repaid, but such interest rate 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, remodeling, renovation, alteration, or acquisition of facilities, may be in the form of grants or 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 title shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction. Financial assistance for construction or acquisition of facilities pursuant to this Act shall be available only to public and private nonprofit agencies, institutions, and organizations.

USE OF PUBLIC FACILITIES FOR CHILD AND FAMILY SERVICE PROGRAMS

SEC. 110. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within eighteen months after enactment of this Act 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 agencies and organizations, through appropriate arangements, for use as facilities for child and family service 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 title, that any prime sponsor under this title 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 available, through appropriate arrangements, for use as facilities for child and family service 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. 111. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 103 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 title. 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 and Family Service Councils and for parent policy committees, consistent with limitations contained in this title.

(b) The Secretary shall pay from funds appropriated under section 3(a) for fiscal year 1976 an amount equal to 100 per centum of the cost of planning, training, and technical assistance.

(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay from funds appropriated under section 3(b) for fiscal year 1977 an amount not in excess of 90 per centum and from funds appropriated under section 3(b) for fiscal year 1978 and subsequent years an amount not to exceed 80 per centum of the cost of carrying out programs, services, and activities under this title. 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 and family service needs of economically disadvantaged children.

(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child and family service programs for children of migrant agricultural workers under this title.

(3) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child and family service programs for children in Indian tribal organizations under this title.

(c) The non-Federal share of the costs of programs assisted under this title 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 shall not be used for the non-Federal share, but shall be used by the prime sponsor to improve and expand programs under the comprehensive child development and family service plan.

(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions or 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 title.

(e) No State or unit of general local government shall reduce its expenditures for child development or child care programs by reason of assistance under this title.

TITLE II—STANDARDS, ENFORCEMENT, AND EVALUATION

FEDERAL STANDARDS FOR CHILD CARE

SEC. 201. (a)(1) Within six months after the enactment of this Act, the Secretary may, after consultation with other Federal agencies and with the approval of the committee established pursuant to subsection (d) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child care services under this or any other Federal Act, to be known as the Federal Standards for Child Care. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor.

(2) Such standards shall replace but shall be consistent with the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Econnomic Opportunity, and the Department of Labor on September 23, 1968. The 1968 requirements will continue to apply to all applicable programs until program standards authorized by subsection (a) are in effect.

(3) Not less than sixty days prior to implementation of program standards pursuant to subsection (a) of this section, the Secretary shall submit such proposed program standards to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Upon majority vote of either Committee within such sixty days disapproving such proposed program standards, such standards shall not take effect.

(b) The Secretary shall establish policies and procedures, in accordance with regulations which he shall prescribe, to assure that all programs and projects assisted under this Act address, on a continuing basis, the individual need of and the appropriateness of child and family service for very young children served—

(1) any program or project providing care outside the home for very young children shall be reviewed and evaluated periodically and frequently by the Secretary, to insure that it meets the highest standards of quality; and the Secretary may reserve such funds as he deems necessary from funds available under this Act for the purpose of evaluation, by appropriate persons, of programs under this Act in order to insure compliance with subsections (a) and (b) of this section.

(2) no program or project described in clause (1) of this subsection shall be approved for assistance under this Act unless it is specifically authorized and approved by the Secretary.

(c)(1) Upon determination that a prime sponsor or project is in violation of one or more of the provisions of this section, the Secretary shall give immediate public notice of such determination to such prime sponsor or project and, if such violation or violations have not been corrected, shall commence action within ninety days of such determination to withhold funds under section 204.

(2) Upon determination that a project is in violation of one or more of the provisions of this section, the prime sponsor shall give immediate notice of such determination to such project and, if such violation or violations have not been corrected, shall commence action within ninety days of such determination to withhold funds under section 204.

(d) The Secretary shall, within sixty days after enactment of this Act, appoint a Special Committee on Federal Standards for Child Care, which shall include parents of children enrolled in Headstart and child care programs, representatives of public and private agencies and organizations administering such programs, specialists, and other public and private providers of child and family services, individuals engaged in licensing activities, and others interested in services for children. Not less than one-half of the membership of the committee shall consist of parents of children participating in programs conducted under title I of this Act and section 222(a) of the Economic Opportunity Act of 1964 and title IV–A of the Social Security Act, or other public programs providing child and family services. Such committee shall participate in the development of Federal Standards for Child Care and modifications thereof as provided in subsection (a).

(e) In no event shall any prime sponsor or program or project receiving assistance under this Act reduce the quality of services provided under this Act below the standards established in this section.

DEVELOPMENT OF UNIFORM CODE FOR FACILITIES

SEC. 202. (a) The Secretary shall, within sixty days after the date of enactment of this Act, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child and family services facilities. Such standards shall deal principally with these matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for child care developed under section 201.

(b) The special committee appointed under this section shall include parents of children enrolled in comprehensive child services programs and representatives of State and local licensing agencies, public health offi-

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cials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering comprehensive child services programs, and national agencies or organizations interested in services for children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under this title, section 222(a)(1) of the Economic Opportunity Act of 1964, and title IV of the Social Security Act.

(c) Within six months of its appointment, the special committee shall complete a proposed uniform code and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

(d) The Secretary must approve the code as a whole or secure the concurrence of the special committee to changes therein, and, upon approval, such standards shall be applicable to all facilities receiving Federal financial assistance under this Act or in which programs receiving such Federal financial assistance are operated; and 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 the procedures described in subsections (a) through (d).

PROGRAM MONITORING AND ENFORCEMENT

SEC. 203. The Secretary shall provide, through the Office of Child and Family Services, for regular and periodic monitoring and programs under this Act to assure compliance with the child care standards and other requirements of this Act, and shall provide for the establishment and maintenance of sufficient trained staff in such office to accomplish the purpose of this section.

WITHHOLDING OF GRANTS

SEC. 204. Whenever the Secretary, after reasonable notice and opportunity for a hearing to 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 106; or

(2) that there has been a failure to comply with applicable standards pursuant to section 201; or

(3) 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 107; or

(4) that in the operation of any plan, program, or project carried out by any such prime sponsor, or project applicant or other recipient of financial assistance under this Act there is a failure to comply substantially with any applicable provision of this Act or regulation promulgated thereunder;

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

CRITERIA WITH RESPECT TO FEE SCHEDULES

SEC. 205. (a) Not later than one hundred and eighty days after the enactment of this Act, the Secretary shall by regulation establish criteria for the adoption of fee schedules by prime sponsors as provided in section 106(b)(7)(B) of this Act. Such criteria shall be designed to permit enrollment or continued participation in the program as family income increases, shall be based on family size, and ability to pay, and shall provide for appropriately reduced charges for less than full-day care, and shall be appropriately adjusted for regional and urban-rural differences in the cost of living or determined by the Bureau of Labor Statistics.

(b) Not less than sixty days prior to implementation of the criteria established by the Secretary pursuant to section 106(b)(7)(B), the Secretary shall submit such proposed criteria to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Upon a majority vote of either committee disapproving such proposed criteria, such criteria shall not take effect and the Secretary shall within sixty days promulgate revised criteria. Such revised criteria, and any revision to criteria established pursuant to this section shall be subject to the requirements of this section.

EVALUATION

SEC. 206. (a) The Secretary shall make an evaluation of Federal involvement in child and family services, which shall include—

(1) enumeration and description of all Federal activities which affect child and family service programs;

(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 Act; and

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

(b) The results of the evaluation required by subsection (a) of this section shall be reported to Congress not later than two years after enactment of this Act.

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

(d) Prime sponsors and project applicants assisted under this Act and departments and agencies of the Federal Government shall, upon request by the Secretary or the Comptroller General of the United States 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, or the Comptroller General determines is necessary for an independent evaluation.

(e) The Secretary may enter into contracts with public or private nonprofit 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, but not more than 2 per centum, of the amounts available under section 3(b) of this Act for any fiscal year.

TITLE III—RESEARCH AND DEMONSTRATIONS

SEC. 301. (a) The Secretary is authorized to carry out a program of research and demonstration projects, which shall include but not be limited to—

(1) research to develop techniques to measure and evaluate child and family services, and to develop standards to evaluate professional and paraprofessional child and family service personnel;

(2) research to test preschool programs emphasizing reading and reading readiness;

(3) preventive medicine and techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases and learning disabilities of preschool children.

(4) research to test alternative methods of providing child and family service;

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

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

(7) production of informational systems and other resources necessary to support the activities authorized by this Act; and

(8) a study of the need on a nationwide basis for child and family services programs and of the resources, including personnel, which are available to meet this need.

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

(c)(1) The Secretary shall coordinate, through the Office of Child and Family Services established under section 101(a), all child and family services 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.

(2) Funds available to any Federal department or agency for the purposes of this title 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 through the Office of Child and Family Services established under section 101(a), for the purposes for which the transfer was made.

(d) The Secretary shall conduct special demonstration, and model programs, which demonstration, and model programs shall be subject to the fullest extent practicable to each of the requirements with respect to project applications under section 107.

(e) The Secretary shall report to Congress not later than September 1, 1976, summarizing his activities and accomplishments under this section during the preceding fiscal year and the grants, contracts, or other arrangements entered into and making such recommendations (including recommendations for legislation) as he may deem appropriate.

TITLE IV—TRAINING OF PERSONNEL FOR CHILD AND FAMILY SERVICES

PRESERVICE AND INSERVICE TRAINING

SEC. 401. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child and family services programs assisted under this Act, 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 and family services program, or any institution of higher education, including a community college, or by any combination thereof.

TECHNICAL ASSISTANCE AND PLANNING

SEC. 402. 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 Act on a continuing basis, to assist them in planning, developing, and carrying out child and family services programs.

TITLE V—GENERAL PROVISIONS

DEFINITIONS

SEC. 501. As used in this Act, 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 and family service programs" means programs on a full day or part-day basis which provide or arrange for the provision of the educational, nutritional, health, and other services needed to provide the opportunity for children to attain their full potential, including services to other family members;

(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 at 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 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 in the home, in schools, or in child facilities;

(8) "parent" means any person who has primary day-to-day responsibility for any child;

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

(10) "working mother" means any mother who needs child or family service in order to undertake or continue full- or part-time employment, training, or education outside the home;

(11) "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, may need special assistance, and, for the purpose of this paragraph, "Spanish-surnamed Americans" includes, but is not limited to, persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

(12) "bilingual" includes, but is not limited to persons who are Spanish-surnamed Americans, 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, may need special assistance;

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

(14) "unit of general local government" means any political subdivision of a State having general governmental powers.

NUTRITION SERVICES

SEC. 502. 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 and family services programs under this Act. 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. 503. (a) The Secretary shall not provide financial assistance for any program under this Act 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, program participant, or any applicant for participation in such 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

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denied employment in connection with, any program or activity receiving assistance under this Act. 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 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 Act.

(c) 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 Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 204, the Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act on any term or condition of assistance under this Act.

(d) The Secretary shall not provide financial assistance for any program, service, or activity under this Act 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—

(1) 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;

(2) the State or local minimum wage for the most nearly comparable covered employment ;or

(3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

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

SPECIAL PROHIBITIONS AND PROTECTIONS

SEC. 504. (a) Nothing in this Act 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, physical, or other development of their children. Nor shall any section of this Act 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) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child informed of such research or experimentation and is given an opportunity as a right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not undergo medical or psychological examination experimentation or research, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases or in cases of medical emergencies where parental consent cannot be readily obtained), or treatment without the written permission of his parent or guardian based upon full undesrtanding of the procedures and possible consequences.

PUBLIC INFORMATION

SEC. 505. 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.

REPEAL OR AMENDMENT OF EXISTING AUTHORITY AND COORDINATION

SEC. 506. (a) After consultation with the head of any agency of the Federal Government immediately responsible for providing Federal assistance for and family services, child care, and related programs, including title I of the Elementary and Secondary Education Act of 1965, section 222(a)(2) of the Economic Opportunity Act of 1964, title VII of the Housing and Urban Development Act of 1966, title I of the Demonstration Cities and Metropolitan Development Act of 1966 and titles IV and VI of the Social Security Act, the Secretary of Health, Education, and Welfare shall establish regulations to assure the coordination of all such programs with the programs assisted under this Act.

(b)(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 care 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 care facilities";

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

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

ACCEPTANCE OF FUNDS

SEC. 507. In carrying out the purposes and provisions of this Act, the Secretary is authorized to accept and use funds appropriated to carry out other provisions of Federal law if such funds are used for the purposes for which they are specifically authorized and appropriated.

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concerned with or operating programs relating to child and family services and at least one person who is particularly skilled by virtue of training or experience in child and family services;

(3) at least one-third of the total membership of the Child and Family Service Council shall be persons who are economically disadvantaged. Each Council shall select its own chairperson; and

(4) in establishing a Child Development and Family Service Council under this section, the prime sponsor shall give due consideration to the membership of child care and day care coordinating bodies then existing in the area to be served.

(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 104 shall provide, with respect to the Child and Family Service Councils established and maintained by such prime sponsor, that—

(1) the parent members described in paragraph (1) of subsection (a) of this section shall be democratically selected by parents as follows:

(A) in the case of Councils established by prime sponsors which are States, by the parent members of local program councils established under section 104(c)(3); and

(B) in the case of Councils established by prime sponsors other than States (and by States with respect to local program councils), initially by parents who are recipients of federally assisted child care services, with equitable and appropriate consideration to parents selected by the parent members of Headstart policy committees and, at the earliest practicable time, by the parent members of parent policy commitees established under section 107(b)(2);

(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 Act;

(3) such Council shall be responsible for approving child and family service plans, basic goals, policies, procedures, overall budget policies and project funding, and the selection or establishment and annual renewal of an administering agency or agencies and will be responsible for annual and ongoing evaluation of child and family service programs according to criteria established by the Secretary; 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.

CHILD AND FAMILY SERVICE PLANS

SEC. 106. (a) Financial assistance under this title may be provided by the Secretary for fiscal year 1976 and any subsequent fiscal year to a prime sponsor designated pursuant to section 104 only pursuant to a child and family service plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this title.

(b) Any such plan shall set forth a program for providing child and family service in the prime sponsorship area which—

(1) provides that programs or services under this title shall be provided only for children whose parents request them;

(2) identifies child and family service needs and goals within the area and describes the purposes for which the financial assistance will be used, giving equitable consideration to the needs of children from each minority group and significant segment of the economically disadvantaged residing within the prime sponsorship area;

(3) meets the needs of children and families in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, with priority for services to children who have not attained six years of age;

(4) provides that programs receiving funds under section 3(b) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of such funds for the purpose of serving economically disadvantaged children;

(5) gives priority thereafter to providing services to children of working mothers and single parents not covered under paragraph (4);

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

(7)(A) provides that no charge will be made with respect to any child who is economically disadvantaged, except to the extent that payment will be made by a third party; and

(B) provides, pursuant to criteria established in regulations promulgated by the Secretary as required by section 205, an appropriate and flexible fee schedule for children who are not economically disadvantaged, designed to permit enrollment or continued participation in the program as family income increases and based upon the size of the family, and its ability to pay, which shall provide for appropriately reduced charges for less than full day care, and shall provide that payment may be made in whole or in part by a third party in behalf of a family, with provision for waivers in cases of need.

(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 the 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 within the prime sponsorship area;

(9) provides for direct parent participation in the conduct, overall direction, and evaluation of porgrams;

(10) provides that, insofar as possible, unemployed or low-income persons residing in communities being served by such projects will be employed therein, including in-home and part-time employment and opportunities for training and career development, provided that no person will be denied employment in any program solely on the grounds that such person fails to meet State or local teacher certification standards;

(11) includes a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

(12) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and other interested persons in the community are fully informed of the actviities of the prime sponsor, Child and Family Service Council, project applicants, and parent policy committees;

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

(14) provides procedures for the approval of project applications submitted in accordance with section 107, including procedures for priority consideration of applications submitted by public and private nonprofit agencies and organizations with ongoing child development programs;

(15) 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 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;

(16) provides for coordination of other child care and related programs (including those relating to manpower training and employment) within the prime sponsorship area with the programs assisted under this Act, including procedures and mechanisms to provide continuity between programs for preschool and elementary school children;

(17) provides for such monitoring and evaluation procedures including licensing, inspection, and enforcement activities as may be necessary to assure that programs in the prime sponsorship area funded under this Act meet the applicable Federal standards as prescribed in section 201 of this Act;

(18) provides, to the extent practicable, for the use of financial assistance and services available from State and local government, Federal sources other than those provided in this Act, and private charitable sources with respect to activities and services under the plan; and

(19) 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.

(c) No child and family service 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) the 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;

(2) each community action agency or single-purpose Headstart agency in the area to be served 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;

(3) in the case of a plan submitted by a prime sponsor other than the State, the Governor of that State or the State Child and Family Service Council has had an opportunity to submit comments to the prime sponsor and to the Secretary.

(d) A comprehensive child and family service 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 therefor,

(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.

PROJECT APPLICATIONS

SEC. 107. (a) Funds may be provided by the prime sponsor for carrying out any program under such prime sponsor's comprehensive child and family service plan only to a qualified public or private agency or organization, including but not limited to an educational agency or institution, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, organization interested in child care, employer or business organization, labor union, or employee or labor management organization.

(b) Financial assistance under this title may be provided to a project applicant for any fiscal year only pursuant to a project application which is submited to the Child and Family Service Council by a public or private agency and which—

(1) describes the project, identifies the children and families it is designed to serve, and provides for the necessary such comprehensive services,

(2) provides for establishing and maintaining a parent policy committee composed of not less than ten members as follows—

(A) not less than half of the members of each such committee shall be parents of children served by such project, democratically selected by parents of children served by the 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 care, child health, child welfare, or other child care services, except that the Secretary may waive the requirement of this clause where he determines, in accordance with regulations that such persons are not available to the area to be served;

(3) provides for direct participation of such parent policy committee in the development and preparation of project applications under this title;

(4) assures that the parent policy committee shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, and for planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects, including approval of the project director and any project applications and modifications thereof;

(5) makes adequate provision for training and other administrative expenses of such parent policy committee (including necessary expenses to enable low-income members to participate in committee meetings);

(6) assures that services shall be provided without charge to any child who is economically disadvantaged except to the extent that payment will be made by a third party, and that charges will be made to any child who is not economically disadvantaged according to the fee schedule established pursuant to section 106(b)(7)(B);

(7) 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 are fully informed of project activities;

(8) provides opportunities for the direct participation of parents, older siblings, and other family members in the daily activities of the programs in which their children are enrolled;

(9) assures, to the extent practicable, employment of paraprofessional aides and use of volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child development and family service programs;

(10) assures that children will in no case be excluded from the programs operated pursuant to this title 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;

(11) provides for such fiscal control and fund accounting procedures as the prime sponsor shall prescribe to assure proper disbursement of and accounting for Federal funds.

(c) 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 and family service plan as approved pursuant to section 106.

(d) A project application from a public or private agency seeking funds under section 104(d) shall be submitted directly to

2/7/75

Senator Walter Mondale on the Truth in Contributions Act

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

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Senate

By Mr. MONDALE:

S. 1153. A bill to amend the Internal Revenue Code of 1954 to require that charitable organizations which solicit contributions from the public pay out at least half of their gross revenues in charitable activities and for other purposes. Referred to the Committee on Finance.

TRUTH IN CONTRIBUTIONS ACT

Mr. MONDALE. Mr. President, about 140 years ago, a Frenchman named Alexis de Tocqueville wrote a book in which he tried to define the character of the new "Americans." Nothing impressed him more than our spirit of generosity.

De Tocqueville wrote:

When an American needs the assistance of his fellow, it is very rare for that to be refused, and I have often seen it given spontaneously and eagerly.

He continued:

When there is an accident on the public road people hurry from all sides to help the victim, and, when some unexpected disaster strikes a family, a thousand strangers willingly open their purses, and small but very numerous gifts relieve their distress.

De Tocqueville's insights still have meaning for us today.

The spirit of charity is alive and well in the United States more than a century after he first described it.

I have been impressed for years with this extraordinary commitment of Americans to helping people in need. During our lifetime, American charity has accepted the challenge of some of our most terrible problems. It has helped to virtually eliminate tuberculosis and polio, to feed millions of hungry children, to aid the crippled and disenfranchised, and to offer new hope and new life to countless victims of our society.

It is with this tradition of commitment in mind that I introduce today the Truth in Contributions Act. My hope is that legislation of this type will help us to strengthen worthwhile, existing charitable efforts; encourage new ones; and discourage activities which are conducted in the name of charity but which have no charitable purpose at all.

The proposed legislation has evolved from a year of study, investigation and hearings of the Subcommittee on Children and Youth, of which I am chairman.

We felt it was appropriate for a congressional committee to conduct such a study because of the substantial Federal support these organizations receive. We identified at least three types of Government subsidy to charities serving children and youth: the tax exemption; nonprofit mailing rates; and registration with the Advisory Committee on Voluntary Foreign Aid of the U.S. Agency for International Development.

In the subcommittee's work, we focused on organizations which emphasize service to children in their programs and/or in their fundraising efforts. We were not able to hold hearings on all of these organizations. We were not even able to compile a complete list of them, because even the Internal Revenue Services does not have one.

Our work showed that most of these groups are led by dedicated persons who are doing an impressive job of assisting youngsters who need help.

But our investigation also uncovered some shocking and misleading practices on the part of some organizations claiming to be charities. For example, we found an organization which raised some $10 million over 10 years to help asthmatic children. A close examination of the records showed that about 15 cents of every dollar had been spent on helping the kids. The rest went to a direct mail firm and to other administrative and fundraising activities. The direct mail firm which earned millions of dollars from this account was never even subjected to a bid procedure. According to their testimony, the charity's executives simply paid whatever bill was presented to them. In addition, the organization had billed certain expenses to an affiliate in another State in order to circumvent the New York state law which regulates fundraising.

In another hearing, a 28-year-old tycoon told the subcommittee exactly how he made his fortune by deceiving the public. I asked him: "Did you call your organization "National Youth Clubs" to make the public think that it was a charity?" The answer was "yes."

National Youth Clubs was one of two organizations we found which were really profitmaking businesses. They recruited children to sell candy and cookies door-to-door. The potential customers thought the proceeds would go to programs for kids. They really went to the owner of the candy and cookies companies.

In an investigation of one of the Nation's major health charities, we discovered a secret agreement between the executive director and his board. This was a contract providing not only a salary of $42,000 a year—but an extra bonus of $12,000 for 2 years. He called this $12,000 a "signing fee" and did not think that it should be reported as salary to the authorities regulating charities in some States.

The subcommittee also requested a General Accounting Office study of organizations which raise money in the United States and send it abroad for charitable efforts. The five organizations studied were all registered with the U.S. Agency for International Development. Some of them advertised this registration in their solicitation materials. And yet, GAO found that AID makes no attempt to audit or monitor the programs of these charities. They may or may not be doing good work. But thef act is that AID simply would not know. The bylaws and the rules of the AID committee require them to investigate and assure the public the registered charities are legitimate. But they were not doing a thing.

The GAO report found that the five groups investigated were doing a good job. But they also found some questionable practices. For example, one organization stated in its ads that gifts for specific children would be forwarded in their entirety to those children. The fact was that this did not always happen. Sometimes the money was spent on several children. But the contributor was not told this. In another case, this organization was still making payments to a school in Hong Kong for more than 100 children who had not been there for months.

I am pleased to report that this particular organization—the Christian Children's Fund—has developed a new format for its ads since the hearings. The ads now include a copy of the financial statement and more complete explanation of what does happen to the contributor's dollar.

I admire and believe very much in this type of self-regulation. We saw other examples of it in our hearings. The Council of Better Business Bureaus and the National Health Council have initiated some very good work in this area. So has the Institute of Certified Public Accountants, which has tried to bring some order into the question of accounting standards for nonprofit organizations. And a few States and other jurisdictions—Pennsylvania, Los Angeles, Florida, and New York among them—have also made real progress in educating both contributors and charities.

But these efforts are limited and, unfortunately, not available to the great majority of Americans when they are confronted with a request to donate funds to an organization.

Through our investigation and hearings we identified several problems which I believe should be addressed:

First. The inadequacy of existing laws to protect most contributors and beneficiaries.

Second. The ability of a few irresponsible organizations to tarnish the reputation of charity in general.

Third. The lack of reliable comparable information which enables the contributors to make an educated decision about how to spend his or her charity dollar.

It is my hope that the Truth in Contributions Act would remedy these problems. I am very aware, however, of the complexities of legislating in this area. The proliferation of laws, ordinances, and standards for the operation of charities suggests that it is very hard to reach a consensus on questions such as which charities deserve our support; and which charities are truly helping people, as opposed to just perpetuating a business operation.

I would like to stress that the Truth in Contributions Act I am introducing today is a first step toward addressing the needs identified by the subcommittee. The bill presents many issues which deserve thorough study and debate among the interested parties. I would encourage all who are interested to offer their suggestions for improvement of the legislation. A section-by-section analysis of the bill follows my statement. But I would like to call attention to a number of issues which I consider to deserve special attention and open debate. They are:

First. What agency or agencies should administer the provisions of the bill. Although the Internal Revenue Service is named in the legislation, we need to consider whether IRS should administer all the provisions; or whether requirements relating to disclosure might more appropriately be administered by another agency.

Second. Exactly which organizations should be subject to the requirements in the bill. The bill as introduced aims to apply to the kinds of groups which were the subject of the subcommittee study.

Third. The best way to establish uniform accounting standards in this field. The legislation requires the Secretary of the Treasury to prescribe one set of accounting standards as the basis for required disclosure reports. If an existing set of standards is found to be adequate and appropriate, this could be written into the law.

Fourth. The best way to implement the principle of disclosure of financial and other information at the time of solicitation. The bill does not specify the mechanism for disclosure in the case of media including radio and television, "walks for charity," and so forth. We need to learn from the experience of jurisdictions which have such requirements; and from the charities who have been complying with them.

In conclusion, I again want to stress that the purpose of this legislation is to strengthen American charity by establishing procedures which enable the public to support the organizations which deserve their support. Private, charitable efforts are an essential part of any strategy for dealing with human problems in this country. They offer millions of volunteers the opportunity to know the satisfaction of helping others. They encourage that special sense of personal involvement that can get lost in Government programs. And they offer contributors the opportunity to work for a cause which they truly want to support.

I hope that voluntary efforts will continue to play a major role in improving the quality of life in our country and other nations of the world; and that they will not lose the vision of a better life which impressed de Tocqueville when he visited America. As he said at that time:

America is a land of wonders, in which everything is in constant motion and every change seems an improvement. The idea of novelty is there dissolubly connected with the idea of amelioration. No natural boundary seems to be set to the efforts of man; and in his eyes what is not yet done is only what he has not yet attempted to do.

I ask unanimous consent that the following documents be printed in the RECORD: An explanation of the purpose and a summary of the bill; a section-by-section analysis of the Truth in Contributions Act; and a copy of the bill.

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

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

SEC. 2. (a) Chapter 42 of the Internal Revenue Code of 1954 (relating to private foundations) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER B—PUBLIC CHARITIES

"Sec. 4961. Taxes on Undistributed Revenue.

"SEC. 4961. TAXES ON UNDISTRIBUTED REVENUE.

"(a) INITIAL TAX.—There is imposed on the undistributed revenue of a public charity for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period (as defined in subsection (c)(5)), a tax equal to 15 percent of the amount of such revenue remaining undistributed at the beginning of such second (or succeeding) taxable year.

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed revenue of a public charity for any taxable year, if any portion of such revenue remains undistributed at the close of the correction period, there is imposed a tax of 100 percent on such portion.

"(c) DEFINITIONS.—For purposes of this section—

"(1) PUBLIC CHARITY.—The term 'public charity' is defined in section 509(f).

"(2) GROSS REVENUE.—The term 'gross revenue' means gross income (as defined in section 61) determined without regard to the provisions of part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) but not including—

"the value of property received and held for the production of income unless such property is sold or exchanged during the taxable year within which it is received (but this paragraph does not exclude amounts constituting gain from the sale or exchange of such property whenever sold or exchanged).

Amounts obligated for expenditure during a taxable year and taken into account under paragraph (4)(B) for the taxable year in which the obligation was made, shall be taken into account as income for the taxable year in which the expenditure was to be made to the extent they are not expended during that year.

"(3) UNDISTRIBUTED REVENUE.—The term 'undistributed revenue' means, for any taxable year, the amount by which one-half of the sum of the gross revenue of a public charity for the taxable year exceeds the sum of—

"(A) the expenditures for charitable purposes for the taxable year determined in accordance with accounting principles or standards prescribed by the Secretary or his delegate, and

"(B) the amounts irrevocably transferred during the taxable year by the public charity to another public charity (other than a public charity from which amounts have been received during the preceding 4 taxable years), so long as the recipient charity includes the amount of such transfer in computing its gross revenues.

"(4) EXPENDITURE FOR CHARITABLE PURPOSES.—

"(A) A public charity is considered to have made an expenditure for a charitable purpose if the expenditure is for—

"(i) the active conduct of the activities constituting the purpose or function for which the public charity is organized and operated, or

"(ii) assets which are directly devoted to such active conduct.

"(B) An amount obligated for a specific project shall be treated as an expenditure for a charitable purpose if—

"(i) expenditure of the amount obligated would be treated as an expenditure for a charitable purpose,

"(ii) the entire amount obligated is to be expended within 5 years after the taxable year during which it is obligated, and

"(iii) the specific project is of a nature which is best accomplished by the obligation, rather than by the immediate expenditure, of funds.

"(C) Expenditures for wages or salaries (other than for wages or salary paid to an individual engaged personally in performing services provided under a charitable program carried out by a public charity), for office facilities, services, equipment, or for other administrative expense, or for fund-raising, shall not be considered an expenditure for a charitable purpose.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed revenue for any taxable year, the period beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212.

"(6) CORRECTION PERIOD.—The term 'correction period' means the period beginning on the first day of the taxable year following the taxable year in which an initial tax is assessed under subsection (a), and ending ninety days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (b)) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed revenue under this section.

"(d) EXEMPTION FOR FIRST FOUR YEARS OF OPERATION.—

"(1) EXEMPTION.—The provisions of this section do not apply to a public charity for the first 4 taxable years of the charity.

"(2) TRANSFEREE ORGANIZATIONS.—For purposes of this subsection, in the case of a transfer of assets of a public charity to another public charity pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee shall not be treated as a newly created organization.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as are necessary to carry out the provisions of this section, including regulations setting forth accounting principles and standards.".

(b)(1) Section 507 of such Code (relating to termination of private foundation status) is amended by—

(A) inserting "OR PUBLIC CHARITY" after "PRIVATE FOUNDATION" in the caption of such section, and

(B) striking out subsection (a) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) PRIVATE FOUNDATIONS.—Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

"(A) such organization notifies the Secretary or his delegate (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) of its intent to accomplish such termination, or

"(B)(i) with respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

"(ii) the Secretary or his delegate notifies such organization that, by reason of clause (i), such organization is liable for the tax imposed by subsection (c),

and either such organization pay the tax imposed by subsection (c) (or any portion not abated under subsection (g)) or the entire amount of such tax is abated under subsection (g).

"(2) PUBLIC CHARITIES.—The status of any organization as a public charity shall be terminated only if—

"(A) such organization notifies the Secretary or his delegate (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) of its intent to accomplish such termination, or

"(B)(i) with respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

"(ii) the Secretary or his delegate, after consultation with the Attorney General with respect to the duties of the Attorney General under section 4 of the Truth in Contributions Act, determines that such termination is appropriate and in accordance with the purposes of such Act and of the amendments made by such Act.".

(2) Section 509 of such Code (relating to definition of private foundation) is amended by—

(A) striking out the caption of the section and inserting in lieu thereof the following:

"SEC. 509. DEFINITIONS.",

(B) striking out the caption of subsection (a) and inserting in lieu thereof the following:

"(a) PRIVATE FOUNDATION.—", and

(C) by adding at the end thereof the following:

"(f) PUBLIC CHARITY.—Except as used in section 507(b), for purposes of this part the term 'public charity' means an organization described in section 170(b)(1)(A)(vi) or (viii), the gross revenue (as defined in section 4961(c)(2)) of which for the taxable year exceeds $25,000, but does not include any organization described in clause (i), (ii), (iii), (iv), (v), or (vii) of section 170(b)(1)(A).".

(3) The caption and table of sections for part II of subchapter F of chapter 1 of such Code is amended to read as follows:

"Part II—Private Foundations and Public Charities

"Sec. 507. Termination of private foundation or public charity status.

"Sec. 508. Special rules with respect to section 501(c)(3) organizations.

"Sec. 509. Definitions.".

(c)(1) The caption for part II of subchapter F of chapter 1 of such Code is amended to read as follows:

"Part II—Private Foundations and Public Charities".

(2) Chapter 42 of such Code is amended by—

(A) inserting "AND PUBLIC CHARITIES" after "FOUNDATIONS" in the caption of such chapter, and

(B) inserting between the caption of the chapter and the table of sections for the chapter the following:

"Subchapter A.—Private Foundations.
"Subchapter B.—Public Charities.

"SUBCHAPTER A—PRIVATE FOUNDATIONS"

(d) Section 6033 of such Code (relating to returns by exempt organizations) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Additional information required from public charities.—Every public charity (as defined in section 509(f)) which is subject to the requirement of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe setting forth, in addition to the information reported under subsection (b)—

"(1) its gross revenue (as defined in section 4961(c)(2)) for the taxable year, on a fund accounting basis in which restricted and unrestricted sources of revenue are clearly distinguished, broken down into such categories as are appropriate for their organization;

"(2) its total expenses for the taxable year, reported on a functional basis in which program costs, administrative and fund raising expenses are reported separately, and in which the program expenses are also broken down to show each of the major programs carried out by the organization together with expenses applicable to more than one program or functional category being allocated as appropriate in accordance with accounting principles or standards prescribed by the Secretary or his delegate;

"(3) a statement of analysis of functional expenses showing the expense categories which have gone into each of the functional expenses reported on the statements of gross revenue and expenses;

"(4) a balance sheet;

"(5) a statement by a certified public accountant that he has prepared the return in accordance with accounting principles and standards prescribed by the Secretary or his delegate, and that the information reported by the public charity under subsection (a) and this subsection presents fairly the information shown therein, and

"(6) such other information as the Secretary or his delegate determines to be necessary to inform prospective contributors of the activities and fiscal policies of the public charity, and to present fairly the financial status of the public charity."

(e)(1) Subpart D of part III of subchapter A of chapter 61 of such Code (relating to information returns) is amended by—

(A) inserting "And Public Charities" after "Private Foundations" in the caption of such subpart, and

(B) adding at the end of such subpart the following new section:

"SEC. 6057. ANNUAL REPORTS AND DISCLOSURE STATEMENTS BY PUBLIC CHARITIES

"(a) ANNUAL REPORT REQUIRED.—The chief executive officer of every public charity (as defined in section 509 (f)) shall file an annual report as of the close of the taxable year at such time and in such manner as the Secretary or his delegate shall prescribe by regulation.

"(b) CONTENTS.—The report required under subsection (a) shall contain the following information with respect to the public charity:

"(1) A copy of the return filed by the charity for the preceding taxable year under section 6033.

"(2) The names and amount of compensation paid for the taxable year to (A) the 10 most highly compensated officers or employees of the public charity, and (B) each employee or consultant who received more than $20,000 in compensation from the public charity for the taxable year.

"(3) Such additional information as the Secretary or his delegate may require.

"(c) SPECIAL RULES.—

"(1) The annual report required to be filed under this section is in addition to, and not in lieu of, the information required to be filed under section 6033 (relating to returns by exempt organizations) and shall be filed at the same time as such information.

"(2) A copy of the notice required by section 6104(d) (relating to public inspection of such annual reports), shall be filed by the chief executive officer of the public charity together with the annual report.

"(3) The chief executive officer of each public charity shall file a copy of the annual report required by subsection (a) with the appropriate official of any State in which the charity solicits contributions, and furnish a copy to such other persons at such times and under such conditions as the Secretary or his delegate may prescribe by regulation.

"(4) The annual report required by this section shall be prepared by a certified public accountant in accordance with accounting principles or standards prescribed by the Secretary or his delegate and shall include a statement by such certified public accountant that in his opinion, the annual report presents fairly the information shown therein in accordance with such accounting principles and standards.

"(d) DISCLOSURE STATEMENT.—

"(1) A disclosure statement shall be filed with the Secretary or his delegate not later than 30 days before the date on which it is first furnished to persons from whom contributions are solicited. The disclosure statement shall be filed at such time and in such manner as the Secretary or his delegate shall prescribe by regulation. The Secretary or his delegate shall disapprove the use of such statement if it is determined that the requirements of such regulation have not been met. The disclosure statement shall not be furnished to any person if it is disapproved by the Secretary or his delegate until it is revised and the revised disclosure statement has been filed with the Secretary or his delegate and the revised disclosure statement is either approved by him or 30 days have passed without the revised disclosure statement being disapproved. The disclosure statement shall also be furnished to the officers to whom the annual report is furnished, and shall be maintained by the Secretary or his delegate in offices of the Internal Revenue Service for public inspection.

"(2) The disclosure statement shall contain, but is not limited to—

"(A) a statement of the gross revenue (as defined in section 4961(c)(2) of the charity for the year covered by the annual report,

"(B) a statement of the amount of the expenditures for charitable purposes described in section 4961(c)(4)(A) for that year, the transfers described in section 4961(c)(4)(B) for that year, and the percentage of such gross revenue represented by each,

"(C) a statement of the amount expended during that year for raising funds, the amount expended for administrative costs (including salaries), and the percentage of gross revenue represented by each.

"(D) such other information as the Secretary or his delegate may prescribe.

"(3) A copy of the disclosure statement shall be furnished by the public charity to each person from whom a contribution is solicited at the time of such solicitation, without regard to whether the solicitation is conducted in person, by mail, by broadcast, by publication or otherwise. The public charity shall mail a copy of the most recent disclosure statement to any individual who requests such copy within 15 days after receipt of the request."

(2) The table of sections for such subpart is amended by adding at the end thereof the following:

"Sec. 6057. Annual reports and disclosure statements by public charities.".

(3) Section 6652(d)(3) of such Code (relating to returns by exempt organizations and by certain trusts) is amended by inserting after "relating to annual reports by private foundations)" the following: "or under section 6057 (relating to annual reports and disclosure statements by public charities),".

(4) Section 6104 of such Code (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by adding at the end thereof the following:

"(e) PUBLIC INSPECTION OF PUBLIC CHARITY'S ANNUAL REPORTS.—The annual report required to be filed under section 6057(a) (relating to annual reports by public charities) shall be made available by the chief executive officer of the charity for inspection at the principal office of the organization during regular business hours by any citizen on request after publication of notice of its availability.

(5)(A) Section 6685 of such Code (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTIES FOR REPORTS, STATEMENTS, AND RELATED REQUIREMENTS APPLICABLE TO CERTAIN ORGANIZATIONS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to file the report and the notice required under section 6056 (relating to annual reports by private foundations), or section 6057(a) (relating to annual reports and disclosure statements of public charities), or who is required to file the disclosure statement under section 6057(d) (relating to disclosure statements of public charities), or who is required to use such statements in contribution solicitations only in the absence of disapproval, under section 6057(d), or who is required to comply with the requirements of section 6057(c)(2) or section 6104(d) (relating to public inspection of annual reports of exempt organizations), and who fails to comply with such requirements, if such failure is willful, shall pay a penalty of $1,000 with respect to each such failure."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6685 and inserting in lieu thereof the following:

"Sec. 6685. Assessable penalties for reports, statements, and related requirements applicable to certain organizations.".

(6) Section 6213(e) of such Code (relating to suspension of filing period for certain chapter 42 taxes) is amended by—

(A) striking out "or 4945" and inserting in lieu thereof 4945",

(B) inserting after "(relating to taxes on taxable expenditures)" the following: ", or 4961 (relating to taxes on undistributed revenue)", and

(C) striking out "or 4945(h)(2)" and inserting in lieu thereof the following: "4945(h)(2), or 4961(c)(6)".

(7) Section 6501(n) of such Code (relating to special rule for chapter 42 taxes) is amended by inserting "or the public charity" after "private foundation" each place it appears in paragraph (1) and paragraph (2).

(8) Section 6501(c)(7) of such Code (relating to termination of private foundation status) is amended to read as follows:

"(7) Termination of exempt status.—In the case of a tax on termination of private foundation or public charity status under section 507, such tax may be assessed, or proceeding in court for the collection of such tax may be begun without assessment at any time.".

(9) Section 7422(g) of such Code (relating to civil actions for refund) is amended by—

(A) striking out "or 4945," in paragraph (1) and inserting in lieu thereof the following: "4945, or 4961,",

(B) striking out "or section 4945(b) in paragraph (1) (relating to additional taxes on taxable expenditures)" and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), or section 4961(b) (relating to additional taxes on failure to distribute revenue),", and

(C) striking out "or 4945" in paragraphs (2) and (3) thereof, and inserting in lieu thereof "4945, or 4961,".

SEC. 3. The Secretary of the Treasury shall encourage the appropriate officers of State and local governments to accept copies of reports made to the Secretary by public charities under sections 6033 and 6057 of the Internal Revenue Code of 1954 in satisfaction of the requirements of State and local laws for similar reports from such organizations.

SEC. 4. (a) Whenever the Attorney General is notified by the Secretary of the Treasury (or his delegate) that consideration is being given to terminating the tax-exempt status of a public charity (as defined in section 509 (f) of the Internal Revenue Code of 1954), the Attorney General shall take whatever action may be necessary to insure that assets consisting of, or derived from, contributions solicited from the public are preserved and expended only for substantially the same charitable purposes as those for which they were contributed.

(b) It is the duty of the Attorney General to carry out the provisions of subsection (a) by seeking voluntary compliance and, if necessary, by instituting civil actions for appropriate relief (including, but not limited to, permanent or temporary injunctions, restraining orders, and other appropriate orders) in the district court of the United States for the district in which such public charity is soliciting contributions or has an office. The district courts of the United States have jurisdiction to entertain civil actions brought under this section. Upon a proper showing that such public charity has engaged, or is about to engage, in acts or practices which would cause the dissipation of such assets or their diversion to noncharitable purposes (or to significantly different purposes), a permanent or temporary injunction, restraining order or other order shall be granted without bond by such court.

SEC. 5. No organization registered with the Advisory Committee on Voluntary Foreign Aid may state that it is registered with that committee in material distributed to the public in connection with the solicitation of contributions to that organization. Any organization violating the provisions of this section shall be fined not more than $1,000. Any officer or director of any organization who causes the organization to violate the provisions of this section, or who consents to any such violation, shall be fined not more than $1,000, imprisoned for not more than one year, or both.

SEC. 6. Any individual who, while an officer or employee of a public charity (as defined in section 509(f) of the Internal Revenue Code of 1954), knowingly commits any act or series of acts which results in the termination (under section 507(a)(2)(B) of the Internal Revenue Code of 1954) of the status of the organization as a public charity shall be fined not more than $5,000, imprisoned for not more than one year, or both.

SEC. 7. The provisions of this Act shall be effective for tax years beginning after December 31, 1975, except that no tax described under section 2(a) of this Act shall be imposed for any tax year beginning before January 1, 1980.

TRUTH IN CONTRIBUTIONS ACT

PURPOSE

Present federal tax laws provide that a charitable organization may retain its tax-exempt status so long as it is "organized and operated exclusively" for charitable and other qualifying purposes, and so long as none of the earnings of the organization "inures" to the benefit of any individual. However, in meeting this "exclusively" test, the Internal Revenue Service (IRS) and the courts have stated it is sufficient if a public charity is engaged "primarily" in activities to accomplish the purposes for which it is tax exempt, and that not "more than an insubstantial part of its activities" is in furtherance of non-exempt purposes. There is no requirement in present law, however, that charities distribute any minimum portion of their revenue each year for charitable purposes, nor that they furnish the public and appropriate government agencies with sufficient information to enforce any minimum distribution requirement. Neither is there any present requirement that a public charity, in soliciting contributions, indicate to potential contributors the portion of their revenues which actually are used or devoted for charitable purposes.

The purpose of this legislation is to require all public charities subject to the Act to distribute at least 50% of their gross revenue each year for charitable purposes, and to provide for filing sufficient information to determine whether this requirement has been met, and to provide for sufficient tax penalties for non-compliance. In extreme cases, repeated violations will result in the charity being put out of business, and the remaining assets turned over for the charitable purposes for which they were contributed. Criminal sanctions may be imposed on those persons causing a charity to lose its status in this manner. Finally, the Act would require public charities to furnish all prospective contributors with a short statement of specific information, including the prior year's revenue, and the amounts and percentage of revenue actually spent for charitable activities, and for other purposes such as administrative and fund-raising expenses. The latter requirement applies to charities subject to the Act, whether or not they have 50% expenditure test.

SUMMARY OF THE ACT

"Public charities" subject to the Act are defined as those receiving a major part of their contributions from government units or from the general public. The Act does *not* apply to religious, educational, hospital, medical research or related organizations, and does *not* apply to organizations with less than $25,000 gross revenues for the year. In addition to the "information returns" now required to be filed by most tax exempt organizations, public charities would be required to include additional information on forms and in such manner as the I.R.S. prescribes, and to have such information returns prepared by a certified public accountant. Most of the additional information relates to income, expenditures, and other balance sheet information. Failure to file such additional information is subject to the present penalty of $10 per day ($5,000 maximum) for the organization and possibly the person(s) responsible for such failure.

Public charities will also be required to file an annual report prepared by a certified public accountant, containing specified information including the names and amounts of compensation received by the 10 highest paid employees and all employees and consultants receiving more than $20,000 for the year. A $10 per day penalty may be imposed on the person failing to file, and a $1,000 penalty may be imposed on any person who "willfully" fails to file such report. Public charities are also to be required to file a "disclosure statement" with the I.R.S., stating briefly the gross revenue for the previous year, and the amounts and percentages of gross revenue actually spent for charitable purposes, or for other purposes such as administrative or fund-raising expenses. This statement must be furnished by the charity to all prospective contributors at the time of solicitation—no matter the manner of solicitation—and may be used only after approval by I.R.S. (or in the absence of disapproval within 30 days after filing). "Willful" failure to file such statement with the I.R.S., or to use an approved statement (or one not disapproved within 30 days) in all solicitations, will result in a $1,000 penalty for each such violation.

Public charities which do not distribute at least 50% of their gross revenue for the year for charitable purposes, will be subject to a penalty tax. This tax will not be imposed for the first four years after enactment of this Act, nor during the first four years of operation of a charity newly created after the date of enactment. Qualifying expenses for charitable purposes include: (1) expenditures for activities for which the charity was organized and is operated; (2) acquisition of assets directly devoted to such activities; and (3) transfers to other public charities (with safeguards to prevent transferring the same amounts back and forth to avoid the penalty tax). Expenditures for office facilities or for wages and salaries (except for those persons engaged personally in performing services provided under a charitable program of the charity) are not considered as qualifying for this purpose. If an organization does not meet the 50% test (and the Act provides that charitable expenditures will qualify even if made within the 12 months following the close of the year in question) a two level tax will be imposed: (1) 15% of the amount that should have been distributed to meet the 50% of revenue test; and (2) a second level tax of 100% of the amount still undistributed more than 90 days after receipt of the I.R.S. notice of the original violation. This tax is imposed on the public charity, not the individuals responsible.

If the I.R.S. determines there have been repeated violations of the 50% test, causing imposition of the tax(es), or if there has been a "willful and flagrant" violation of this test, then I.R.S. may proceed to "terminate" the charitable status of the organization. Generally, this means that the I.R.S., with the help of the Attorney General if necessary, will move to put the charity out of business, and preserve and take over the charity's assets to prevent them from being used for non-charitable purposes. Criminal sanctions are possible against the person(s) who "knowingly" commits any acts or series of acts (or failures to act) which result in the termination of charitable status ($5,000 fine, 1 year in prison, or both).

The Act will take effect for years beginning after December 31, 1975, except that the two level tax on failure to meet the 50%-of-revenue distribution test will not be imposed for four years thereafter, or during the first four years of operation of a charity newly created after enactment.

SECTION-BY-SECTION ANALYSIS OF THE TRUTH IN CONTRIBUTIONS ACT

1. SHORT TITLE

This bill when enacted may be called the "Truth in Contributions Act."

2. TAXES ON UNDISTRIBUTED REVENUE OF A PUBLIC CHARITY SUBJECT TO THE ACT

Section 2(a) of the bill amends chapter 42 of the Internal Revenue Code of 1954* (relating to taxes on private foundations) to add new Code section 4961, which provides that a public charity subject to the Act must distribute at least 50% of its revenue for charitable purposes within the taxable year (or within the 12 months following the close thereof) and imposes tax sanctions in the event of failure to do so. The sanctions take the form of a two-level tax: (1) an initial tax, and (2) an additional tax (both discussed below).

For purposes of this section and the Act, the following definitions are included in new Code section 4961(c):

"Public charity" is to be defined in new Code section 509(f), and is discussed subsequently in this analysis. Generally the Act will apply to certain charities other than religious, hospital, or educational organizations, which receive their support from government units or the general public, and then the Act only applies to such organizations that received "gross revenue" exceeding $25,000 for the year.

"Gross revenue" of a public charity is defined as is "gross income" for most taxpayers, but without regard to certain tax exclusions provided in the Code. "Gross revenue" does *not* include the value of property received and held for the production of income beyond the year of receipt.

"Undistributed revenue" of a public charity is defined as the amount by which one-half "gross revenue" exceeds the sum of (1) "expenditures for charitable purposes," and (2) amounts transferred to other public charities, so long as the recipient organization(s) reports this as part of its "gross revenue" for the year, and has not made any transfers to the donor organization within the year or within the four preceding years.

"Expenditure for charitable purposes" is defined as amounts expended in the taxable year (or within the 12 months following the close thereof) for either (1) the active conduct of the activities constituting the purpose or function for which the charity is organized and operated, or (2) for acquisition of assets directly devoted to such active conduct. Amounts which are obligated to be paid within 5 years after the taxable year for specific projects, will qualify as expenditures in the taxable year, so long as a current expenditure for such project would qualify. The term does *not* include expenditures for the wages or salary of an individual (other than for wages or salary paid to an individual engaged personally in performing services under a charity's charitable program), and does not include expenditures for office furniture and facilities, services equipment, or for other administrative expenses, or fund-raising expenses.

The *"initial tax"* is 15% of the amount of expenditures for charitable purposes which would be required to bring the charity's charitable expenditures to the 50% of gross revenue level. If after imposition of the initial 15% tax the public charity does not make the necessary charitable expenditures to meet the 50% of gross revenue level within the "correction period", an *"additional tax"* of 100% of the amount of "undistributed revenue" yet to be distributed for charitable purposes, will be imposed. The term "correction period" means the period beginning on the first day of the taxable year following the taxable year in which the initial tax was imposed, and ending 90 days after the mailing of a notice of deficiency by the I.R.S. This 90 day period may be extended to provide for filing a petition to the Tax Court for redetermination of the alleged deficiency, or for any other purpose and for any period the I.R.S. determines is reasonable and necessary to permit distribution of the "undistributed revenue."

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*Hereafter called "Code."

The new Section 4961 of the Code, (requiring payouts of "undistributed revenue," and imposing two-level taxes in the event of failure to do so), does not apply to a public charity subject to this Act, during the first four taxable years of the charity. In the case of a transfer of the assets of one public charity to another through liquidation, merger, redemption, recapitalization, or other adjustment, organization or reorganization, the transferee will *not* be treated as a newly created organization. These provisions of section 4961 will *not* become effective for four years for public charities in existence at the time of enactment of the Act.

3. TERMINATION OF PUBLIC CHARITY STATUS

Section 2(b)(1) of the bill amends section 507(a) of the Code (relating to termination of private foundation status) to include public charities. Under this provision, a public charity subject to the Act, wishing to *voluntarily* terminate its status, may do so if it properly notifies the I.R.S. of its intentions, and also pays a substantial "termination tax." A public charity may also be *involuntarily* terminated by the I.R.S., if it is determined that the charity or its officers have committed "willful" repeated violations (or committed a "willful and flagrant violation") of the 50%-of-revenue test for charitable expenditures, resulting in imposition of the penalty taxes described above. When I.R.S. is contemplating such action, it must notify the Attorney General, who shall take (as required by section 4 of the Act) any appropriate action (including court proceedings) to preserve the public charity's assets derived from public contributions, and to to see that they are used only for the charitable purposes for which the contributions were made. In the event of an involuntary termination, the public charity is also required to pay the substantial "termination tax."

The termination tax, described in the present Code sections relating to private foundations, is the *lower* of: (1) the 'aggregate tax benefit," or (2) the value of the public charity's "net assets." *"Aggregate tax benefit"* is the total amount of taxes, income gift or estate, that would have been collected from "substantial contributors" and the charity since 1913, had the charity not been tax-exempt and the contributors' deductions disallowed, plus interest to the date of termination. *"Net asset value"* is the value of the public charity's assets on either the first day it begins termination, or on the last day of its charity status, whichever value is higher. Thus, on termination, I.R.S. will either recover the lost taxes from all the years of the charity's exempt status, or will recover the charity's assets or their value at termination.

Section 6 of the Act, related to the above provides that any individual who, while an officer or employee of a public charity, "knowingly" commits any act or series of acts which results in the involuntary termination of the status of an organization as a public charity, shall be fined up to $5,000, and imprisoned for up to one year, or both.

4. DEFINITION OF PUBLIC CHARITY SUBJECT TO THE ACT

Section 2(b)(2) amends section 509 of the Code (relating to the definition of private foundations), by adding new subsection 509(f). Public charities are defined as including those defined in Code section 170(b)(1)(A)(vi) and (viii). Generally, these organizations include those for which contributions are deductible for donors up to a limit of 50% of their adjusted gross incomes, and which organizations normally receive a substantial part of their support from government units or from contributions from the general public. Qualifying organizations must meet several tests, including the following: (1) they must be organized under the laws of the United States or any State, U.S. Possession, or D.C.; (2) they must be organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to animals or children; (3) they may not have any part of their earnings inure to the benefit of any private shareholder or individual; and (4) they may not have a substantial part of their activities consist of carrying on propaganda or otherwise influencing legislation, nor may they participate in or intervene in any political campaigns on behalf of any candidate for any public office.

New Code section 509(f) specifically *excludes* from the "Truth in Contributions" Act those organizations which are described in Code sections 170(b)(1)(A)(i), (ii), (iii), (iv), and (vii). These include churches; educational institutions; hospitals and medical research organizations; certain governmental units; certain private foundations; and organizations whose purpose is to "receive, hold, invest and administer property and to make expenditures to and for the benefit of a college or university. Section 509(f) also *excludes* from the "Truth in Contributions Act" for any given year, an organization which would otherwise be subject to the Act, but which has less than $25,000 gross revenue for that year.

5. CONFORMING AMENDMENTS

Section 2(b)(3) and 2(c) of the bill amend captions and tables of sections of the Code to reflect above changes.

6. ADDITIONAL INFORMATION TO BE FILED ON INFORMATION RETURNS BY PUBLIC CHARITIES SUBJECT TO THIS ACT

Section 2(d) of the bill amends Code section 6033 (relating to information returns required to be filed by exempt organizations) to require additional information from those public charities subject to this Act. Present law requires certain information from various tax-exempt organizations (including those which would be subject to this Act) to be filed on forms supplied by the I.R.S., if the organization has more than $5,000 gross revenues that year. The bill would not change these requirements, but new subsection 6033(c) would impose additional informational requirements on those public charities subject to the Act, that is, with more than $25,000 gross revenues that year.

The additional information to be filed includes: (1) a statement of gross revenue for the year, on a fund accounting basis, distinguishing between restricted and unrestricted sources of revenue; (2) a statement of total expenses for the year, reported on a functional basis, distinguishing between program costs, administrative and fund-raising expenses, and other categories prescribed by I.R.S.; (3) a statement of analysis of functional expenses; (4) a balance sheet; and (5) "such other information [determined by I.R.S.] . . . to be necessary to inform prospective contributors of the public charity, and to present fairly the financial status of the public charity."

The bill would require that the form filed in compliance with Section 6033(c), be prepared by a certified public accountant and that the information therein be prepared in accordance with accounting principles or standards prescribed by the Secretary or his delegate.

Present law provides (Code section 6652(d)(1) and (2)), a $10 per day penalty (maximum $5,000) will be imposed *upon tax exempt organizations* for failure to file such information returns. I.R.S. may make written demand that such information be filed by some reasonable date, and if filing is not made by that date (absent a showing of reasonable cause), a $10 per day penalty (maximum $5,000) will be imposed *on the person(s) responsible* for such failure.

7. ANNUAL REPORTS TO BE FILED BY PUBLIC CHARITIES SUBJECT TO THIS ACT

Section 2(e)(1) of the bill adds new Code section 6057, which provides that public charities subject to the Act must file with the I.R.S. an annual report. A similar requirement is found in existing law with regard to certain private foundations. The report will reflect the public charity's condition as of the close of the taxable year, and is filed in addition to, not in lieu of, the information returns described above. The reports must be filed on forms that are to be supplied by the I.R.S., or in such manner as the I.R.S. prescribes. The report shall contain: (1) a copy of the information return required to be filed by the public charity for the preceding taxable year; (2) the names and amounts of compensation paid for the taxable year to the ten highest paid officers and employees of the public charity, and each employee or consultant who received more than $20,000 in compensation from the public charity for the year; and (3) other information that may be required by the I.R.S. A copy of the notice required by Code section 6104(d) (relating to public inspection of such annual reports) must be filed with the annual report.

A copy of the annual report is required to be filed with the appropriate officials in any state where the public charity solicits contributions. The annual report must be prepared by a certified public accountant in accordance with accounting standards to be prescribed by the I.R.S., and must include a statement that he has examined the report and that the report presents the information fairly in accordance with such accounting standards, and in a manner consistent with the public charity's practices during the previous taxable year.

Section 2(e)(3) of the bill amends section 6652 of the Code, to impose a $10 per day penalty (maximum $5,000) *on the person* failing to file the public charity's annual report on the date and in the manner prescribed.

Section 2(e)(5) of the bill, related to the above, amends Code section 6685, to provide for a $1,000 penalty for any person who *"willfully"* fails to comply with these filing rules for the annual report.

8. DISCLOSURE STATEMENTS TO BE FILED BY PUBLIC CHARITIES WITH I.R.S. AND USED IN SOLICITING CONTRIBUTIONS ONLY IN ABSENCE OF I.R.S. DISAPPROVAL

Section 2(e)(1) of the bill also adds another subsection to new Code section 6057, which requires a public charity subject to the Act to file a disclosure statement with the I.R.S. at least 30 days prior to using such statement in soliciting contributions. Public charities would be required to furnish a copy of a disclosure statement to all persons from whom contributions are solicited, without regard to the manner in which such solicitation is made (including broadcasts, mail, in person, by publication, and otherwise), but may not use such disclosure statement unless it has been approved by I.R.S., or has not been disapproved within 30 days after submission to I.R.S. A public charity must mail a copy of its most recent disclosure statement to any individual who requests such a copy, within 15 days after receipt of such request. The disclosure statement shall also be furnished to the state officials and others to whom a copy of the annual report must be furnished.

The disclosure statement must contain (but is not limited to): (1) a statement of gross revenue for the year covered by the annual report; and (2) a statement of the amounts expended during the year, and the percentage of gross revenue represented by such expenditures, for charitable purposes, administrative costs, fund-raising expenses, and for other purposes as required by the I.R.S.

Section 2(e)(3) of the Act amends Code section 6652 of the Code to provide a penalty of $10 per day (maximum $5,000) for late filing of the disclosure statement.

Section 2(e)(5) of the bill, related to the above, amends Code section 6685, to provide a $1,000 penalty for any person who *"willfully"* fails to comply with these rules for filing a disclosure statement with the I.R.S., or *"willfully"* failing to furnish a disclosure statement to all prospective contributors at the time of solicitation, which statement has been approved by I.R.S. (or not disapproved within 30 days after filing).

9. CONFORMING AMENDMENT

Section 2(e)(2) of the bill provides a conforming amendment to the Code to add new section 6057 to the table of sections at the appropriate place in the Code.

10. $10 PER DAY PENALTY FOR LATE FILING OF PUBLIC CHARITY'S ANNUAL REPORT

Section 2(e)(3) of the bill amends section 6652 of the Code, to impose a penalty of $10 per day on the person failing to file the public charity's annual report and disclosure statement on the date and in the manner prescribed. (This is the same penalty referred to in items 7 and 8 above).

11. PUBLIC INSPECTION OF ANNUAL REPORTS

Section 2(e)(4) amends Section 6104 of the Code (relating to publicity of information from certain exempt organizations and certain trusts) by adding new subsection (d), which requires that the annual report of a public charity be made available by the chief executive officer of the charity for inspection at the principal office of the organization during regular business hours by any individual who requests it.

Section 2(e)(5) the bill amends Code section 6685, to provide for a $1,000 penalty for any person who *"willfully"* fails to comply with these notice requirements.

12. ASSESSABLE PENALTIES WITH RESPECT TO ANNUAL REPORT AND DISCLOSURE STATEMENT REQUIREMENTS OF THE ACT

Section 2(e)(5) of the bill amends Code section 6685 (relating to assessable penalties with respect to private foundations annual reports) to extend the present $1,000 per violation penalty to any person who *willfully* fails to comply with the requirements for filing an annual report or a disclosure statement, or who *willfully* fails to comply with the notice requirements related thereto, or who *willfully* fails to furnish a copy of an approved disclosure statement (or one which has not been disapproved within 30 days after submission to I.R.S.) to all prospective contributors at the time of solicitation, as required by Code sections 6057 and 6104, as amended by the Act. (This is the same penalty referred to in items 7, 8, and 11 above).

13. SUSPENSION OF FILING PERIOD FOR CERTAIN EXCISE TAXES

Section 2(e)(6) amends section 6213(e) of the Code (relating to suspension of filing period for certain chapter 42 taxes) to include the taxes on undistributed income provided under new section 4961 among those which would be suspended for any period which the I.R.S. has extended the time for making corrections.

14. APPLICATION OF SPECIAL RULES FOR ASSESSMENT TO PUBLIC CHARITIES

Section 2(e)(8) amends Section 6501(c)(7) of the Code (relating to termination of private foundation status) to provide that the tax on termination of public charity status under Section 507 (referred to in item 3 above) may be assessed, or court proceedings for the collection of the tax may be begun without assessment at any time.

15. SPECIAL RULES FOR CIVIL ACTION FOR REFUND OF CERTAIN CHAPTER 42 TAXES

Section 2(e)(9) amends section 7422(g) of the Code (relating to civil actions for refund) to include the taxes imposed by new section 4961 on public charities as taxes for which refund suits may be brought. A suit cannot be started if a prior suit has been instituted or if a petition has been filed in the Tax Court. The determination by the court represents a final decision on all questions with respect to any other tax imposed.

16. REPORT REQUIREMENTS OF STATE AND LOCAL GOVERNMENTS

Section 3 of the bill provides that the I.R.S. shall encourage the appropriate officers of State and local governments to accept copies of reports made by public charities under sections 6033 and 6057 in satisfaction of their requirements for similar reports.

17. DUTIES OF ATTORNEY GENERAL IN PUBLIC CHARITY TERMINATION

Section 4 of the bill provides that upon notification by the I.R.S. that an involuntary termination of public charity status is under consideration, the Attorney General is required to take whatever action is necessary to assure that the charity's assets derived from public solicitation are preserved and expended only for substantially the same charitable purposes. The Attorney General is required to carry out this provision by seeking voluntary compliance, and if necessary, by instituting civil action for appropriate relief in the district court of the United States for the district where the charity is soliciting contributions or has an office. If it is shown that the public charity has dissipated or is about to dissipate these assets or divert them to noncharitable or significantly different purposes, a permanent or temporary injunction, restraining order or other order shall be granted by the district court.

18. ORGANIZATIONS REGISTERED WITH THE ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Section 5 of the bill provides that no organization registered with the Advisory Committee on Voluntary Foreign Aid of the U.S. Agency for International Development, may refer to this registration in material distributed to the public in soliciting contributions to that organization. Such registration applies to charities which raise money in the U.S. and send it abroad for charitable efforts. An *organization* violating this provision will be subject to a fine of not more than $1,000. Any *officer or director* of an organization who causes an organization to violate this provision or who consents to such a violation, shall be subject to a fine of not more than $1,000, or to be imprisoned for not more than one year, or both.

19. CRIMINAL PENALTIES FOR CERTAIN ACTIVITIES BY PUBLIC CHARITY OFFICERS OR EMPLOYEES

Section 6 of the bill provides that any individual who, while an officer or employee of a public charity, "knowingly" commits any act or series of acts which results in the termination of the status of an organization as a public charity, shall be fined not more than $5,000, imprisoned for not more than one year, or both. (This is the same penalty referred to in item 3 above.)

20. EFFECTIVE DATES

Section 7 of the bill provides that the Act will take effect for years beginning after December 31, 1975, with the exception that the two-level tax on failure to meet the 50% of revenue expenditure test will not be imposed for four years thereafter, or during the first four years of operation of a new charity organized after the date of enactment.

United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

May 12, 1975

Dear Colleague:

I recently introduced a bill designed to increase the accountability of charitable organizations to the public and to assure that funds solicited in the name of charity are actually spent on a charitable purpose.

The bill, the "Truth in Contributions Act," evolved from a year of study, investigation and hearings of the Subcommittee on Children and Youth, which I chair. Our work showed that most charities are led by dedicated persons who are doing an impressive job of helping people who need help. But the investigation also revealed some shocking and misleading practices by some organizations claiming to be charities.

The investigation also showed that existing charity laws and enforcement are, with a few exceptions, chaotic at best. Some states have charity solicitation laws, and some do not. None of these is adequate to protect contributors to and beneficiaries of large, interstate organizations.

The "Truth in Contributions Act" would require tax exempt charities to tell the public how their funds are spent at the time that they solicit. It would also require charities to spend at least 50 per cent of their income on substantive programs--as opposed to fund raising and administration. Charities which did not meet this requirement could be put out of business by the Internal Revenue Service.

I am enclosing for your information a copy of a reprint from the Congressional Record. It contains both the text of the bill and a section by section analysis of it. Copies of the 1974 hearings are also available from the Subcommittee should you desire further information.

I would be pleased to have you join in cosponsoring this bill. Please have your staff contact Ellen Hoffman of the Subcommittee staff at X48706 if you wish to do so.

Sincerely,

Walter F. Mondale

Walter F. Mondale

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

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Senate

By Mr. MONDALE (for himself, Mr. CLARK, Mr. HUMPHREY, and Mr. SCHWEIKER):

S. 1217. A bill to amend the Regional Rail Reorganization Act of 1973 in order to expand the planning and rail service continuation subsidy authority under such act, and for other purposes. Referred to the Committee on Commerce.

RURAL RAIL PRESERVATION AND IMPROVEMENT ACT

Mr. MONDALE. Mr. President, Senators CLARK, HUMPHREY, and SCHWEIKER, and I are today reintroducing the Rural Rail Preservation and Improvement Act, a bill which we introduced in the 93d Congress to preserve and upgrade the quality of rail services to rural America.

During the debate on the Rail Services Act of 1973, Senator HUMPHREY and I proposed the essence of this legislation in the form of two floor amendments to that bill. These amendments were designed to expand the protections against precipitous railroad abandonment to communities located outside the Northeast rail corridor. The first amendment mandated a comprehensive study of the impact of branch line abandonments on our Nation's economic, social and environmental requirements, and it authorized Federal assistance to continue services along essential lines that would otherwise be discontinued. Our second amendment would have placed a 2-year moratorium on railroad abandonments outside the northeast region, pending completion of the study and the implementation of State and local programs to utilize Federal rail service continuation grants. These amendments were adopted by the Senate, but unfortunately, they were dropped from the bill during conference committee.

The problem of branch line abandonments is of critical concern to rural communities. In order to increase production, farming areas must have access to good transportation for delivery of farm inputs, such as feed and fertilizer, and for shipments of agricultural commodities to markets. But while the demand for transportation services in most rural areas has never been higher, an ever growing number of agricultural communities are facing the complete loss of rail services.

Nationwide, the number of abandonment proceedings before the Interstate Commerce Commission has grown from 197 in May of 1974 to 365 today. These applications cover more than 7,000 miles of track.

Under the 1973 Rail Services Act, a program of continuation grants was established to assist communities in the so-called Northeast and Midwest Rail Emergency Region to maintain essential rail services. Roughly 4,000 of 7,000 miles of track now threatened by abandonment are located in this region. However, an additional 3,000 miles, many of them in America's prime agricultural areas, are covered by no program of Federal assistance whatsoever.

In offering legislation today, we are not arguing that no additional branch lines should ever be abandoned. We do not believe the Federal Government ought to help keep every mile of track in operation where more efficient and economical alternatives are available. Nevertheless, before thousands of miles of track are torn up or left in ruins, we do propose that a comprehensive assessment be made of the costs of and alternatives to such action.

Under our proposal the Secretary of Transportation would be required to develop within 300 days a comprehensive report regarding essential rail services within the Nation. This report would be subject to evaluation and hearings by the Rail Services Planning Office. These findings would then be used by the Office in the preparation of a detailed information survey and report on the impact of abandonments in States outside the rail emergency region.

If it could be shown that the economic, social, and environmental costs of abandoning a branch line would exceed the benefits, our proposal would authorize assistance to State and local governments for up to 70 percent of the cost of keeping the line in operation. This assistance would be available nationwide on the same basis that it is now available to the rail emergency region. Our bill would authorize an additional $100 million to cover the cost of this program.

Finally, to provide time for study of our rural transportation network and to enable State and local governments to set up programs to utilize continuation grants, our bill would provide for a temporary 2-year moratorium on abandonments outside the Northeast region. This moratorium could be waived whenever the abandonment request is not opposed by any State, county, or municipality served by the line.

Earlier I spoke of the threat to rural communities of a total loss of rail service. Where good, all-weather roads do not exist, this threat is especially severe. But it is not just farmers and farm related businesses that would suffer from such action; it is also the consumer and the worker whose very job may be at stake. Fortunately, in the case of Harlem Valley Transportation Services against Stafford a Federal district court has ruled, and the second circuit court has affirmed its finding, that the Interstate Commerce Commission must abide by the National Environmental Policy Act in assessing the environmental effects of individual applications for abandonment. This is an important step toward the thorough evaluation that should take place before an abandonment can be permitted. The Congress must, however, insure that this evaluation includes not only the environmental, but also the social and economic effects of such action by approving the Rural Rail Preservation and Improvement Act.

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

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

S. 1217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Rail Preservation and Improvement Act".

NATIONAL STUDIES AND POLICY

SEC. 2. (a) Section 204 of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"REPORTS

"SEC. 204. (a) PREPARATION.—(1) Within thirty days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions and recommendations with respect to the geographic zones within the region at and between which rail service should be provided and the criteria upon which such conclusions and recommendations are based; and (2) within three hundred days after the date of enactment of the Rural Rail Preservation and Improvement Act, the Secretary shall prepare a comprehensive report containing his conclusions with respect to essential rail services within the Nation in the area outside the region, and his recommendations as to the geographic zones at and between which rail service should be provided. The Secretary may use as a basis for the identification of such geographic zones the standard metropolitan statistical areas, groups of such areas, counties, or groups of counties having similar economic characteristics such as mining, manufacturing, or farming.

"(b) SUBMISSION.—Upon completion, the Secretary shall submit the reports required by subsection (a) of this section to the Office, the Association, the Governor and public utilities commission of each State studied in the report, local governments, consumer organizations, environmental groups, the public, and the Congress. The Secretary shall further cause a copy of each report to be published in the Federal Register.

"(c) TRANSPORTATION POLICY.—Within one hundred and eighty days after the date of enactment of the Rural Rail Preservation and Improvement Act, the Secretary shall formulate and submit to Congress a national transportation policy. The Secretary shall consider all relevant factors in formulating this national transportation policy, including the need for coordinated development and improvement of all modes of transportation, and recommendations as to the priority which should be assigned to the development and improvement of each such mode.".

(b) Section 205 of such Act is amended by inserting at the end thereof the following:

"(e) OTHER STUDIES.—Within three hundred days after the effective date of the final system plan, the Office shall, with the assistance of the Secretary and the Association—

"(1) study, evaluate, and hold public hearings on the Secretary's report on essential rail services within the Nation, which is required under section 204(a)(2) of this title, and the Secretary's formulation for a national transportation policy, which is required under section 204(c) of this title. The Office shall solicit, study, and evaluate comments, with respect to the content of such documents and the subject matter thereof, from the same categories of persons and governments listed in subsection (d)(1) of this section but without any geographical limitations; and

"(2) prepare a detailed information survey and detailed and comprehensive studies with respect to States outside the region covering the same material required to be surveyed and studied by the Association with respect to the region under section 202(b) of this Act, including a comprehensive report to be submitted to the Commission, the Association, the Secretary, and the Congress and to be published in the Federal Register.".

REPORT AND PARTIAL MORATORIUM OF ABANDONMENTS

SEC. 3. Section 304 of the Regional Rail Reorganization Act of 1973 is amended by inserting at the end thereof the following:

"(g) REPORT ON ABANDONMENTS AND PARTIAL MORATORIUM.—The Commission shall submit to the Congress within ninety days after the date of enactment of the Rural Rail Preservation and Improvement Act a comprehensive report on the anticipated effect, including the environmental impact, of abandonments in States outside the region. No carrier subject to part I of the Interstate Commerce Act shall abandon, during a period of seven hundred and thirty days after the date of enactment of such Act, all or any portion of a line of railroad (or operation thereof) outside the region, the abandonment of which is opposed by any State, county, or municipality served by that line.".

EXPANSION OF RAIL SERVICE CONTINUATION SUBSIDY AND LOAN AUTHORIZATIONS

SEC. 4. (a) Subsection (a) of section 402 of the Regional Rail Reorganization Act of 1973 is amended by inserting after the first sentence the following: "The operation of rail properties with respect to which the Commission has issued a certificate of abandonment within five years prior to the date of enactment of this Act and which remain in condition for rail service shall, subject to the other provisions of this section, be eligible for such subsidies.".

(b) Such section 402 is further amended by striking out "in the region" wherever appearing therein.

(c) Subsection (i) of such section 402 is amended by striking out "$90,000,000" and inserting in lieu thereof "$200,000,000".

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121 WASHINGTON, WEDNESDAY, APRIL 23, 1975 No. 63

Senate

SENATE RESOLUTION 136—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. MONDALE. Mr. President, the months since the resignation of Richard Nixon as President of the United States have witnessed an improvement in executive-congressional relations of real importance.

Yet despite this improvement, substantial problems remain in assuring executive branch accountability to the Congress. Policymaking in some vital areas to the Nation remains chaotic, and too often the existing congressional committee structure is unable to pinpoint responsibility for these policy decisions. The problem of overlapping and inconsistent Cabinet department jurisdictions continues to hamper the effective operations of the executive branch. And the relationship of key employees within the White House and the Cabinet officers still poses problems in assuring accountability of the executive to the legislative branch.

The events surrounding the Watergate affair revealed the dangers inherent in the ability of a few men on the White House staff—responsible to no one, mostly without the sobering experience of electoral politics, and beyond the reach of Congress—to control policy. And these events have led to a rethinking of the respective roles of the legislative and the executive branches.

As part of this rethinking, we should attempt in as many ways as possible to increase Congress' ability to conduct meaningful dialog with those officials in the executive branch in whose offices responsibility for policymaking decisions should rest. This attempt should focus on keeping both Congress and the Cabinet officers and agency heads in better touch with each other.

By making those executive branch figures whose confirmation by the Senate is required by law more accountable to the people—through the Congress—we will encourage the shift away from a White House staff of a few unelected and unresponsive individuals and reassert the proper role of the Congress and the Cabinet officers.

As one step in this process, I am submitting today a Senate resolution to provide for the establishment of a question and report period, somewhat analogous to that in use in many parliamentary systems around the world. This resolution is similar to one which I submitted in June of 1973.

This is neither a new or a radical idea. It was given notice by the first Congress, which in creating the Office of Secretary of the Treasury, declared that "he shall make, report and give information to either branch of the legislature either in person or in writing" as either House might require. Indeed, during this first Congress, Cabinet officers appeared before the House 8 times, and before the Senate 14 times.

In 1864, a select committee of the House and in 1881, a select committee of the Senate recommended the right to the floor of both Houses for Cabinet officers both to answer questions and to participate in debate. In 1912, President Taft, in a message to Congress, made virtually the same recommendation. And throughout the 1940's and 1950's, Senator Estes Kefauver championed the idea of a "question hour" and first introduced legislation of the type I am introducing today.

Nor does this proposal affect the constitutional doctrine of separation of powers. The Constitution clearly gives the President the power to "require the opinion in writing of the principal officer in each of the executive departments upon any subject appertaining to the duties of their respective offices." This proposal would not diminish this right in the slightest. It merely would allow an additional dimension to the role of these executive officers—that of spirited and productive dialog with members of the legislative branch.

The proposal does not call for the subpenaing of executive officers to appear before the Senate. It is framed in terms of "requests" to appear, because the central thrust of this proposal is to increase—rather than decrease—the dialog between and mutual responsibilities of Cabinet-level officers and the Senate.

Under terms of this proposal, the heads of executive departments and agencies would be requested to answer orally, both written and oral questions propounded by Members of the Senate. Such a question period would occur at least once every week when the Senate is in session, and would last for no more than 2 hours. Senators would submit written questions to the committee having jurisdiction over the subject matter of the question, and if the committee approves the question, it would be transmitted to the head of the department or agency involved, with an invitation to appear before the Senate.

The Committee on Rules and Administration would also receive a copy of the question, along with a request for allotment of time in a question period to provide for the answering of the question. The Rules Committee will determine the dates and length of time of each question period, and will allot the time in such period to the department or agency head who has indicated his readiness to answer. To conserve time and consolidate questioning in subject-matter areas, any one question period shall be taken up by questions approved by one committee.

In the latter half of each question period, oral questions may be asked, but they must be germane to the subject matter of the written questions. The time in this latter hour will be equally controlled by the chairman and ranking minority member of the committee which has approved the questions.

Senators will be given advance notice at least 2 days before the question period by printing of the time of each question period and the written questions to be answered in the RECORD, and the proceedings of the question period will be printed in the RECORD.

In addition, the resolution provides that question period proceedings may be televised and broadcast on radio live. In an era of mass communication, it is important to provide for both print and electronic media coverage to insure wide dissemination of the proceedings conducted under provisions of this resolution.

During the early 1940's, Walter Lippmann noted that—

> The two branches of Government (executive and legislative) will quarrel endlessly at the expense of the Nation, depriving it of the unity it needs and the collective wisdom it should have, as long as the responsible men at both ends of Pennsylvania Avenue deal with one another suspiciously and at arm's length.

That remark remains true today. Never has there been a greater need for a regularized procedure during which Congress can question the policies of the executive branch, and the executive branch's responsible officers can defend their proposals and actions. Essential to this process is its openness. In contrast to congressional investigative committees, the entire Senate—not just a few Senators—will be able to question and hear the executive branch's defense.

Hopefully, this system of close questioning of Cabinet-level officers will result in Cabinet posts being filled with men and women whose responsibility for defending articulately the proposals or actions of an administration will lead to a greater involvement for those individuals in formulating the policies and actions of their departments.

Most importantly, this resolution will enable Congress and the people to secure the Nation's right to have free and open debate on the central policies guiding us.

As Arthur Schlesinger, Jr., has observed, a question and report period of the type which I am introducing today could have "quite extensive consequences for the traditional system:

> As for the President, a question hour could subtly alter the balance of his personal power both as against his cabinet, whose members would have the chance to acquire new visibility and develop their own relationships with Congress and the electorate, and as against Congress, which would have the opportunity of playing off his own Cabinet against him.

This legislation is not without risks. It will mean a rearrangement of institutional relationships whose consequences we cannot totally foresee. But it is certainly worth these risks in order to enable the Congress to increase the respect of the President and his principal agents for the ability and willingness of the Congress to carefully scrutinize their actions.

My proposal will not—and was not designed to—replace or supplant any of the valuable committee procedures now available to this body. In fact, the proposal, as I have outlined it, specifically preserves for committees the right to approve questions before they are brought to the attention of the executive officer whose answer is requested by a Senator.

Rather, this proposal is designed to give the Congress—and the American people—the right to information concrening important policies and actions of the executive branch, in a forum carefully controlled by time and germaneness so as to insure that productive questioning results.

When Senator Kefauver proposed question-period legislation in the mid-1940's, the support of the American people for this idea was clearly evident. A Gallup poll conducted in the fall of 1943 showed 72 percent in favor of the proposal, and only 7 percent opposed.

Clearly, this idea has new and more crucial relevancy today. In recent years, the faith of the American people in their Government has fallen steadily.

We must stop this decline of trust in Government. We must, at this crucial juncture in relations between the executive and legislative branch, attempt to restore both Congress power to know and the power of Cabinet officers—rather than White House staff—to formulate policy and publicly defend that policy.

The resolution which I am introducing today is certainly not the entire solution to this monumental problem. But without it, the trust of the American people in their Government may continue to erode. And as the late Adlai Stevenson noted:

Public confidence in the integrity of the government is indispensible to faith in democracy; and when we lose faith in the system we have lost faith in everything we fight for.

We must begin restoration of this public trust in Government. And, as a select committee of the Senate noted in 1881, the question period may enable us to begin this task:

This system will require the selection of the strongest men to be heads of departments, and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts and will thus assuredly result in the good of the country.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD at the conclusion of my remarks.

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

S. RES. 136

Resolved, That rule X of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"3. There shall be held in the Senate, on at least one day in any one calendar week in which the Senate is in session, a question and report period, which shall not consume more than two hours, during which heads of each department, agency or independent instrumentality within the Executive branch are requested to answer orally, written and oral questions propounded by Members of the Senate. Each written question shall be submitted in triplicate to the committee having jurisdiction of the subject matter of such question, and, if approved by such committee, one copy shall be transmitted to the head of the department or agency concerned, with an invitation to appear before the Senate, and one copy to the Committee on Rules and Administration with a request for allotment of time in a question period to answer such question. Subject to the limitations prescribed in this paragraph, the Committee on Rules and Administration shall determine the date for, and the length of time of, each question period and shall allot the time in each question period to the head of a department, agency or instrumentality who has indicated to the committee his readiness to deliver oral answers to the questions transmitted to him. All written questions propounded in any one question period shall be approved by one committee. The latter half of each question period shall be reserved for oral questions which shall be germane to the subject matter of the written questions by Members of the Senate, one-half of such time to be controlled by the chairman of the committee which has approved the written questions propounded in such question period and one-half by the ranking minority member of such committee. The time of each question period and the written questions to be answered in such period shall be printed in two daily editions of the Record appearing before the day on which such question period is to be held, and the proceedings during the question period shall be printed in the Record for such day. Live television and radio coverage of proceedings authorized under this paragraph shall be permitted. The Committee on Rules and Administration shall make all appropriate arrangements and establish appropriate procedures for providing such coverage."

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PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

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Senate

By Mr. MONDALE:

S. 1677. A bill to amend chapter 23 of the Internal Revenue Code of 1954—relating to the Federal Unemployment Tax Act—to provide for the eligibility of school teachers for unemployment insurance under the unemployment insurance program. Referred to the Committee on Finance.

Mr. MONDALE. Mr. President, I am today introducing legislation designed to remove an inexcusable inequity in our Federal-State unemployment compensation system. The bill which I am proud to introduce would bring teachers within the unemployment compensation system.

The unemployment compensation system in this country is designed as a cooperative effort between the Federal Government and the governments of the States. As a general rule, the Federal legislation embodying the system requires the States to equal or exceed specifically described Federal requirements in order to participate.

Under present law, the States are given the option to include non-Federal employees in the unemployment compensation system. Unfortunately, coverage has not been generously forthcoming.

Only 8 States, including Minnesota, provide mandatory coverage for teachers. Although 24 States allow local governments the choice of whether or not to cover teachers, there has been minimal exercise of the local option. Generally, because the local districts are fiscally dependent upon higher legislative bodies, teachers must convince the school district plus one or more legislative bodies of the desirability of coverage.

Most unfortunate of all, 17 States provide for neither mandatory nor voluntary coverage of teachers.

The Supreme Court of the United States has said:

> Today, education is perhaps the most important function of state and local governments. . . . It is required in the performance of our most basic public responsibilities. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

Although written many years ago, these words ring equally true today.

It is, after all, the teacher who serves as the vehicle for the transmission of this important input into the lives of our children. The teacher conveys facts and figures. The teacher serves as a moral and ethical example. The teacher serves as a parent-substitute for many hours of the day.

The teacher is, in short, an indispensable public servant, performing a vitally important professional function. The work performed by teachers is as important as that performed by any group of our society.

It is, therefore both unwise and unfair to treat the teacher as a second-class citizen when he or she, through no personal fault, falls victim to unemployment.

Mr. President, teachers are not escaping the effects of our current economic problems. Several years ago teachers were part of a booming job market. There were not enough teachers to fill the enormous need. Today, however, teaching positions are very, very hard to find. Many experienced, qualified teachers have been laid off and are unable to find new employment. Recent graduates are entering the market with no prospect for employment.

These people want to teach, they are trained to teach, but the employment situation is desperate. The Office of Education estimates that, within the next 5 years, there will be a Nationwide reduction of 80,000 teaching jobs.

Mr. President, we must not ignore this important segment of our society when they fall victim to unemployment. We must help teachers over periods of economic adversity as we help others.

It is estimated that, of the 2.2 million teachers in the United States today, only approximately 424,220—about 16 percent—are presently covered by permanent unemployment compensation protection.

Fortunately, the 93d Congress enacted Public Law 93-567, providing a temporary program of unemployment compensation benefits for workers—including teachers—who are not presently covered. Under this law, teachers in 41 States are currently receiving unemployment compensation benefits.

We should—we must—continue this program during our current period of high unemployment. However, we must also think ahead, toward basic reform of our unemployment compensation system. The legislation I am introducing today is designed to do just that.

Unemployment insurance is a Federal-State System designed to provide temporary wage-loss compensation to workers as protection against the economic hazards of unemployment. Funds accumulated from taxes on wages during periods of employment permit payments of benefits to covered workers during periods of unemployment.

At the same time as the unemployed worker is assisted financially while he is looking for work, the benefit payments help maintain purchasing power throughout the economy and cushion the shock of unemployment on the economy. In addition to helping the worker, the program is designed to help the entire economy, helping to prevent an economic downturn from gathering momentum and forcing further declines in consumer purchasing power. The benefits are countercyclical in effect and help to prevent unemployment from spreading and lasting a longer time.

Thus, Mr. President, not only does the importance of the teaching profession dictate inclusion of educators in our Unemployment Compensation System, the basic rationale of the System dictates inclusion.

Mr. President, I continue to advocate broad reform of the Unemployment Compensation System. Accordingly, I will shortly introduce a much broader bill on this subject, including reform of numerous aspects of the System—duration, eligibility, benefit amounts, and the like.

The legislation I am introducing today aims at a specific inequity. I am hopeful that it will serve as a vehicle for the Senate to focus on this problem.

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

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

S. 1677

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

SECTION 1. This Act may be cited as the "School Teachers' Unemployment Insurance Act."

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code of 1954 is amended by striking out the word "higher" in each instance in which the word appears therein immediately preceding the word "education" in the subparagraph.

(b) Section 3304(a) of such Code is further amended by striking out, in paragraph (12) of such subsection, the words "and institutions of higher education (as defined in section 3309(d)" where such words appear therein immediately preceding the words "operated by such political subdivisions."

(c) Section 3309 of the Internal Revenue Code of 1954 is amended by—

(1) striking out the word "higher" where such word appears immediately preceding the word "education" in subsection (a)(1)(B);

(2) striking out paragraph (3) of subsection (b) and redesignating paragraphs (4), (5) and (6) of such subsection as paragraphs 3, (4) and (5), respectively;

(3) amending subsection (d) to read as follows:

"(d) DEFINITION OF INSTITUTION OF EDUCATION.—For purposes of this section, the term "institution of education" means an educational institution in any State—

"(1) which offers preschool, elementary or secondary education or occupational training, (except that the term shall not include any day care center that provides predominantly custodial service) and is a public institution, or

"(2) which is an institution of higher education and which

"(a) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(b) is legally authorized within such State to provide a program of education beyond high school;

"(c) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

"(d) is a public or other nonprofit institution."

SEC. 3. (a) the captions of section 3309 of the Internal Revenue Code 1954 is amended to read as follows:

"STATE LAW COVERAGE OF CERTAIN SERVICES PERFORMED FOR NONPROFIT ORGANIZATIONS, INSTITUTIONS OF EDUCATION AND STATE HOSPITALS

(b) The table of sections for chapter 23 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 3309 and inserting in lieu thereof the following:

"Sec. 3309. State law coverage of certain services performed for nonprofit organizations, institutions of education, and State hospitals."

SEC. 4. Section 3303(f) of the Internal Revenue Code of 1954 is amended by inserting immediately after "January 1, 1969," in such subsection "or, in the case of an organization or group of organizations to which section section 3309(a)(1)(A) applies as the result of amendments made by the School Teacher's Unemployment Insurance Act, January 1, 1972."

SEC. 5. (a) The amendments made by sections 2, 3 and 4 shall apply with respect to certifications of State laws for 1977 and subsequent taxable years, but only with respect to service performed after December 31, 1975.

(b) Section 3304(a)(6) of the Internal Revenue Code of 1954 (as amended by this Act) shall not be a requirement for the State law of any State prior to July 1, 1977, if the legislature of such State does not meet in a regular session which closes during the calendar year 1976.

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