

signed by the Speaker of the House of Representatives:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement.

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims docket numbered 326-I, and for other purposes;

S. 2575. An act for the relief of William John West;

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

ORDER FOR STAR PRINT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a star print be ordered of report No. 92-1155 on the bill (S. 3362) known as the Surface Transportation Act of 1971, in order to correct certain errors appearing in the original printing of the report.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SCOTT:

S. 4012. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4013. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits. Referred to the Committee on Finance.

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

S. 4014. A bill to amend the antitrust laws of the United States and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 4015. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina; and

S. 4016. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the

State of South Carolina. Referred to the Committee on Interior and Insular Affairs.

By Mr. PELL:

S. 4017. A bill to establish a Regional Railroad Rights of Way Authority. Referred to the Committee on Commerce.

By Mr. RANDOLPH, from the Committee on Public Works:

S. 4018. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Ordered to be placed on the calendar.

By Mr. BIBLE:

S. 4019. A bill to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY:

S. 4020. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT:

S. 4012. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

Mr. SCOTT. Mr. President, I am today introducing legislation to eliminate several unfair practices which have developed subsequent to the enactment of certain amendments in 1965 to the Immigration and Nationality Act. My bill would provide for additional special immigrant visas, on an annual basis, to each country of the Eastern Hemisphere, and would trim the backlog in visa issuance in the so-called fifth preference category—brothers and sisters of U.S. citizens.

Very simply, the old system for selecting immigrants to the United States was based on a national origins quota concept. Legislation passed by the Congress replaced that system with an overall ceiling on Eastern Hemisphere immigration on a first-come, first-served basis, within various preference categories. However, during the phaseout period of the old system, the backlogs in some oversubscribed preferences were not removed. Furthermore, immigration from the former high quota countries was adversely affected. Immigration, particularly from Ireland, was cut back severely while the "brothers and sisters" backlog, particularly from Italy, was reduced by a very small amount.

The bill I am introducing today, as a counterpart to one already approved by the House of Representatives, restores to these countries the immigration benefits originally intended for them. One purpose of the bill is to facilitate the immigration of aliens chargeable to the beneficiary countries who would not otherwise qualify for immigration or who would experience a delay in obtaining an immigrant visa because of the oversubscription of the Eastern Hemisphere preference classification to which they were entitled. The special visas granted would primarily benefit Germany, Great Britain, Ireland, and Poland.

A second purpose of the bill is to re-

duce the backlog in the "brothers and sisters" preference. The old national origins system provided disproportionate national quotas, to govern the admission of immigrants, without regard to the reunification of families. In the transition to the new system, some countries, particularly Italy, were discriminated against. Under my bill, the special visas issued would benefit Italy, Greece, Poland, and Portugal.

Mr. President, it seems to me that if we are to continue our immigration and nationality program, we ought to make it fair and equitable, especially for the countries, such as Ireland and Italy, which have been adversely affected. I am hopeful that this new legislation will move us closer to that goal.

By Mr. MONDALE:

S. 4013. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs—and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program—will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits. Referred to the Committee on Finance.

SOCIAL SECURITY PASS THROUGH

Mr. MONDALE. Mr. President, on June 29 the Congress passed an urgently needed 20 percent increase in social security benefits. I am proud that I was a co-sponsor of that long overdue legislation.

However, more recently, on the Senate floor, I said that many social security recipients were losing all or part of their 20-percent increase, although the Congress did not intend this to happen.

Let me read parts of two letters I have received from Minnesota concerning this pitiful and cruel situation.

One poverty stricken widow wrote to me saying that—

The Minneapolis Housing Authority is raising my rent as a result of my increase in Social Security . . . and I will be losing my food stamps also. The way I figure it, I would be better off without the raise.

Another elderly couple in Cushing, Minn., sent me the notice of a rent increase they had received from the housing authority and said that their old age assistance check was being reduced dollar for dollar to take away every cent of the social security increase. The elderly wife wrote:

Senator, I just haven't been able to keep up as it is and now to get a cut in our Old Age checks. Living is so terribly high. Everything is so terribly high. We pay taxes, insurance, we have payments. We don't begin to have what we need.

My husband is a cripple from arthritis and 79. We are two people that just don't like to beg. We have no other income, just our Social Security and Old Age Assistance . . . and now giving more on Social Security but taking away Old Age Assistance . . . we aren't getting any raise. What can be done?

These are typical letters. Recipients of old age assistance and aid to the blind and disabled, those with veterans' pensions, people receiving food stamps, the medically indigent and many people in public housing are finding that the 20-

percent social security increase will mean a reduction or even a loss of these other benefits.

This is happening because in most States, those who receive old age assistance will lose dollar for dollar any increase they receive in their social security benefits.

In Minnesota, the terrible problems illustrated by the letters I have just read are not limited to a few. Sixty percent of the 23,000 elderly citizens who receive old age assistance—about 14,000 senior citizens—may be in danger of losing part or all of their social security increase. These are the poorest of the poor—living in small apartments, often alone, faced by soaring inflation which hits them much harder than it does other people.

Another 2,000 elderly Minnesotans will lose all entitlement to old age assistance as a result of the 20-percent social security increase—and will thereby lose all or part of their medicaid and food stamp benefits.

In addition to this problem with old age assistance, there is another serious threat to the recent social security increase of those elderly Americans who live in public housing. As a result of increased rentals for many public housing units—in Minnesota and throughout the country—these elderly citizens will lose as much as 25 percent of their social security increase.

These rental increases can be avoided, not only for social security beneficiaries, but for all other public housing tenants as well, if the President will simply release \$130 million for public housing operating subsidies—funds which have already been appropriated by the Congress. I have recently written to the President, urging him to release these funds.

But although the President can roll back increases in public housing rents himself—this is only part of the solution to the problem. Congress itself must act to make it mandatory to pass through the 20-percent social security increase by preventing cuts in old age assistance, medicaid, food programs, and housing rents.

The bill I am introducing today is a bill which my colleagues from Minnesota, Congressmen FRASER and KARTH, have already introduced in the House. It will correct the serious injustices which I have mentioned and it will also focus attention on the underlying problem—our failure to adequately coordinate programs for the elderly.

I ask unanimous consent that 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. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a)(10)(A) of the Social Security Act is amended by inserting "(I)" immediately after "(i)", by striking out "(ii)" and inserting in lieu thereof "(II)", and by inserting immediately before the semicolon at the end thereof the following: ", and (ii) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established un-

der title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act".

(b) Section 402(a)(8)(A) of such Act is amended by striking out "and" at the end of clause (i), by striking out "; and" at the end of clause (ii) and inserting in lieu thereof ", and", and by adding after clause (ii) the following new clause:

"(iii) in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act; and".

(c) Section 1002(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: ", and (D) shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act".

(d) Section 1402(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: ", and (D) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act".

(e) Section 1602(a)(14) of such Act is amended by striking out "and" at the end of subparagraph (C), by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of this Act".

Sec. 2. (a) Subsection (g) of section 415 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying paragraph (1)(G) of this subsection, shall disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of the Social Security Act."

(b) Section 503 of title 38, United States

Code, is amended by adding at the end thereof the following new subsection:

"(d) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying subsection (a)(6) of this section, shall disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of the Social Security Act."

(c) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(1) of the Social Security Act.

Sec. 3. Notwithstanding any other provision of law, in the case of any individual who is entitled for any month after August 1972 to a monthly benefit under the insurance program established by title II of the Social Security Act, any part of such benefit which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336, or which results from (and would not be payable but for) any cost-of-living increase in such benefits subsequently occurring pursuant to section 215(1) of the Social Security Act, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility of such individual or his or her family or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964, for surplus agricultural commodities under any Federal program providing for the donation or distribution of such commodities to low-income persons, for admission to or occupancy of low-rent public housing under the United States Housing Act of 1937, for subsidized mortgages or rentals under title II of the National Housing Act, or for any other benefits, aid, or assistance in any form under a Federal program, or a State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household.

Sec. 4. The amendments made by the first section of this Act shall be effective with respect to calendar quarters ending on or after September 30, 1972. The amendments made by section 2 of this Act shall apply with respect to annual income determinations made pursuant to sections 415(g) and 503 (as in effect both on and after June 30, 1960) of title 38, United States Code, for calendar years after 1971. The amendments made by section 3 of this Act shall be effective with respect to items furnished after August 1972.

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

S. 4014. A bill to amend the antitrust laws of the United States and for other purposes. Referred to the Committee on the Judiciary.

THE ANTITRUST PROCEDURES AND PENALTIES ACT

Mr. TUNNEY. Mr. President, we have learned a great deal about the impor-

by inserting after subsection (a) the following:

"(b) Any consent judgment proposed by the United States for entry in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which that proceeding is pending and published in the Federal Register at least 60 days prior to the effective date of such decree. Simultaneously with the filing of the proposed consent judgment, unless otherwise instructed by the court, the United States shall file with the district court, cause to be published in the Federal Register and thereafter furnish to any person upon request a public impact statement which shall recite:

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposed judgment, relief to be obtained thereby, and the anticipated effects on competition of that relief, including an explanation of any unusual circumstances giving rise to the proposed judgment or any provision contained therein;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the proposed judgment is entered;

"(5) a description of the procedures available for modification of the proposed judgment;

"(6) a description and evaluation of alternatives to the proposed judgment and the anticipated effects on competition of such alternatives.

"(c) During the 60-day period provided above, and such additional time as the United States may request and the court may grant, the United States shall receive and consider any written comments relating to the proposed consent judgment. The Attorney General or his designate shall establish procedures to carry out the provisions of this subsection; but the 60-day time period set forth herein shall not be shortened except by order of the district court upon a showing that extraordinary circumstances require such shortening and that such shortening of the time period is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

"(d) Before entering any consent judgment proposed by the United States under this section, the court shall determine that entry of that judgment is in the public interest. For purpose of this determination, the court shall consider:

"(1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies, and any other considerations bearing upon the adequacy of the judgment;

"(2) the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint, including consideration of the public benefit to be derived from a determination of the issues at trial.

"(e) In making its determination under subsection (d), the court may—

"(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master, pursuant to rule 53 of the Federal Rules of Civil Pro-

cedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual group or agency of government with respect to any aspect of the proposed judgment of the effect thereof in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

"(4) review any comments or objections concerning the proposed judgment filed with the United States under subsection (c) and the response of the United States to such comments or objections;

"(5) take such other action in the public interest as the court may deem appropriate.

"(f) Not later than 10 days following the filing of any proposed consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any officer, director, employee, or agent thereof, or other person except counsel of record, with any officer or employee of the United States concerning or relevant to the proposed consent judgment.

Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this section have been complied with and that such filing is a true and complete description of such communications.

"(g) Proceedings before the district court under subsections (d) and (e), and public impact statements filed under subsection (b) hereof, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

PENALTIES

SEC. 3. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1, 2, and 3) are each amended by striking out "fifty thousand dollars" and inserting "five hundred thousand dollars if a corporation, or, if any other person, one hundred thousand dollars."

EXPEDITING ACT REVISIONS

SEC. 4. Section 1 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 28; 49 U.S.C. 44), commonly known as the Expediting Act, is amended to read as follows:

"SECTION 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

SEC. 5. Section 2 of that Act (15 U.S.C. 29; 49 U.S.C. 45) is amended to read as follows:

"(a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292(a)(1) and 2107 of title 28 of the United States Code but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ of certiorari as provided in section 1254(1) of title 28 of the United States Code.

"(b) An appeal from a final judgment pursuant to subsection (a) shall lie directly to the Supreme Court if:

"(1) upon application of a party filed within five days of the filing of a notice of appeal, the district judge who adjudicated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(2) the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(3) the district judge who adjudicated the case, sua sponte, enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice."

A court order pursuant to (1) or (3) or a certificate pursuant to (2) must be filed within fifteen days after the filing of a notice of appeal. When such an order or certificate is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. That Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a)."

SEC. 6. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is repealed.

(b) The proviso in section 3 of the Act of February 19, 1903, as amended (32 Stat. 848, 849; 49 U.S.C. 43), is repealed and the colon preceding it is changed to a period.

SEC. 7. The amendment made by section 2 shall not apply to an action in which a notice of appeal to the Supreme Court has been filed on or before the fifteenth day following the date of enactment of this Act. Appeal in any such action shall be taken pursuant to the provisions of section 2 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 29; 49 U.S.C. 45) which were in effect on the day preceding the date of enactment of this Act.

ANTITRUST PROCEDURES AND PENALTIES ACT

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title
The Act may be cited as "The Antitrust Procedures and Penalties Act."

Sec. 2. Consent Decree Procedures

Section 2 adds a series of new subsections to Section 5 of the Clayton Act (15 USC § 16) to establish procedures governing the filing and entry of a consent judgment settling a civil antitrust suit by the United States. These new subsections, numbered "(b)-(g)" are inserted after the present subsection "(a)" in Section 5 of the Clayton Act.

SUBSECTION (B)—PUBLIC IMPACT STATEMENT

This subsection provides that any consent decree proposed by the United States must be filed with the court in which the case is pending and simultaneously published in the Federal Register at least 60 days prior to the effective date of the decree. In addition the Government must file a "public impact statement" containing the following:

- (1) the nature and purpose of the proceeding;
- (2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;
- (3) an explanation of the proposed judgment, the relief to be obtained thereby, the anticipated effects on competition of that relief and an explanation of any special circumstances giving rise to the proposed judgment or any provision contained therein.
- (4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the judgment is entered;
- (5) a description of the procedures available for modification of the judgment;
- (6) a description and evaluation of alternatives to the proposed judgment and the anticipated effects on competition of such alternatives.

The public impact statement required by this subsection is analogous to the environmental impact statement presently required from governmental agencies by the National Environmental Policy Act.

SUBSECTION (C)—PROCEDURES FOR PUBLIC COMMENT AND DEPARTMENTAL RESPONSE

This subsection lengthens the present 30 day public comment period to 60 days. It also provides that the sixty day period may be shortened by order of court but only upon a showing that extraordinary circumstances require it and that such a shortened time period would not be adverse to the public interest.

An additional requirement contained in this subsection is a filing by the Justice Department of a formal response to comments submitted to it pursuant to this provision. This requirement has two purposes: first, to give some assurance that public comments will in fact be considered by the Department when received; and second, to provide additional data to the district court in making its decision whether to enter the decree.

SUBSECTION (D)—ENTRY OF THE DECREE

This subsection establishes the general criteria by which the court should determine whether to enter a particular decree.

The mandate is phrased first in general terms: Before entering any consent judgment, the court shall determine that entry of that judgment is in the public interest.

In addition, however, and as an aid to the court in making its independent judgment, the bill provides a number of more detailed criteria for determination of the public's interest. Those criteria are as follows:

- (1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies, and any other considerations bearing upon the adequacy of the judgment; and
- (2) the public impact of entry of the judgment upon the public generally and persons alleging specific injury from the violations set forth in the complaint; including consideration of the public benefit to be

derived from a determination of the issues at trial.

SUBSECTION (E)—PROCEDURES AVAILABLE TO THE COURT

This subsection adds a series of discretionary procedural devices to assist the court in making the determination of public interest required by the Act. Those procedures are as follows:

- (1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;
- (2) appoint a special master, pursuant to Rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual, group or agency of government with respect to any aspect of the proposed judgment or the effect thereof in such manner as the court deems appropriate;
- (3) authorize full or limited participation in proceedings before the court by interested persons or agencies; including appearance amicus curiae, intervention as a party pursuant to Rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;
- (4) review any comments or objections concerning the proposed decree filed with the United States under subsection (c) and the response of the United States to such comments or objections;
- (5) take such other action in the public interest as the court may deem appropriate.

SUBSECTION (F)—RECORD OF LOBBYING ACTIVITIES

This subsection provides that not later than 10 days following the filing of any proposed consent judgment as required by the bill each defendant must file with the district court a description of any and all written or oral communications by or on behalf of the defendant with any officer or employee of the United States concerning or relevant to the consent judgment or the subject matter thereof. Included under this provision are contacts on behalf of a defendant by any of its officers, directors, employees or agents, or any other person acting on behalf of the defendant, with any federal official or employee. Thus, for example, the provision would include contacts with Members of Congress or staff, Cabinet officials, staff members of executive departments and White House staff.

The only exception is a limited exception for attorneys representing the defendant who are of record in the judicial proceeding. The exception is designed so as to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation. However, the provision is not intended as a loophole for extensive lobbying activities by a horde of "counsel of record."

In addition, the subsection requires that prior to entry of the consent judgment by the court, each defendant must certify to the court that the requirements of the section have been complied with and that the filing is a true and complete description of all such contacts or communications.

SUBSECTION (G)—PRIMA FACIE EFFECT

A final provision in the consent decree procedures retains the provision presently contained in Section 5 of the Clayton Act which prevents use of a consent decree in any way in subsequent litigation as prima facie evidence of violation. A new subsection (g) would be added which provides that proceedings before the district court in con-

nection with the decree pursuant to this Act and public impact statements filed pursuant to the act are not admissible against any defendant in any action or proceeding brought by any other party against that defendant under the antitrust laws or by the United States under Section 4A of the Clayton Act, nor constitute a basis for introduction of the decree as prima facie evidence against such defendant in any such action or proceeding.

The basic reason for including this provision is to preserve the consent decree as a substantial enforcement tool by declining to give it prima facie effect as a matter of law.

SECTION 3. CRIMINAL PENALTIES

This section increases the penalties for criminal violations of the antitrust laws from \$50,000 to \$100,000 for individuals and \$500,000 for corporations.

SECTION 4—7. EXPEDITING ACT REVISIONS

These sections incorporate revisions of the Expediting Act which previously passed both House and Senate in the 91st Congress. They provide for intermediate appellate review of antitrust cases, with direct appeal to the Supreme Court retained for cases of general public importance. In addition, the present uncertainty regarding the opportunity for appeal by the Government from a denial of a preliminary injunction by a district court is resolved by allowing such appeals.

By Mr. PELL:

S. 4017. A bill to establish a Regional Railroad Rights of Way Authority. Referred to the Committee on Commerce.

Mr. PELL. Mr. President, I introduce today for reference to the Senate Committee on Commerce a bill to allow the establishment of regional rail roadbed authorities to take ownership of the roadbed of bankrupt railroads and to issue revenue bonds to aid in the recapitalization of bankrupt railroads. I also ask that the bill be printed in full following these remarks.

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

Mr. PELL. Mr. President, I think there would be few people who would disagree with the statement that we must preserve our Nation's freight and passenger rail service capacity. The economic and environmental justifications for that proposition has been well debated on this floor for many years.

The disagreement remains with the means the Congress should use to maintain the viability of our railroad services.

Very few persons want to nationalize the railroads.

Very few persons want to subsidize the railroads.

The question then remains as to what other means exist for saving our railroad system, especially our railroad system in the Northeast Corridor.

I believe there is a third alternative which is actually a very simple alternative.

I would propose that railroads be treated by Government policy in the same manner as airlines and truck companies are treated.

Airlines are provided runways and air-planes and truck companies are provided highways through the implementation of governmental policies. Yet railroads are left solely responsible for providing their own rights-of-way.

I think it is unreasonable to expect that railroads will remain competitive with other modes of transportation if railroads are to be the only mode of transportation which are to be left to finance completely their own rights-of-way.

It seems to me that there is a way through our constitutional authority for maintaining interstate commerce for Congress to maintain the vitality of the railroad industry without nationalizing the railroad or without subsidizing the railroad.

I believe we can accomplish this end by treating railroad beds like highway toll roads.

I am offering today a bill which would establish independent regional Federal authorities to take ownership of the roadbeds of a bankrupt railroad's roadbed through the issuance of tax-exempted revenue bonds which the bankrupt railroad could then use in tax-free transaction to exchange for their existing long-term debt.

The regional railroad rights-of-way authority would lease back to the bankrupt railroad the continued use of the railroad bed through an arrangement where the railroad pays for the maintenance of the roadbed; that is, through a net-net lease.

The lease would be given on the basis of a minimum payment together with a predetermined car toll similar to the procedure used on toll roads. Electronic devices are available which could be placed along the roadbed at various points to audit the use of the roadbed.

The bonds that would be issued by the regional authority would pay a 5 percent tax exempted dividend and be completely negotiable in tax-free exchanges.

If a regional authority determined that a particular railroad was not providing adequate freight service to a region, or in certain cases, inadequate passenger service, the regional authority would give a lease to another competing railroad in conjunction with the lease to the initial railroad or in replacement of the lease to the first railroad.

If, by some unlikely circumstance, the roadbeds acquired by the authority were not able to be leased to a railroad or able to generate enough income to pay off the bonds, the authority could sell the roadbeds to commercial developers. Since real estate is as constantly appreciating investment and since most railroad beds likely to be purchased by an authority as needed for services will lie in densely populated areas, there is no likelihood that the sale of the nonusable roadbeds to commercial developers would not produce more than enough income to repay the defaulted revenue bonds.

This proposed regional rail rights-of-way authority would provide a number of benefits.

First, it would provide a means for keeping needed rail service of bankrupt railroads in effect without any direct costs to the Federal Government. The railroad roadbeds obviously would no longer be a source of tax revenue under this proposal; but this is not an argument against the authority since a rail-

road that is bankrupt is also not a source of tax revenue.

Second, the revenue bonds of the authority would serve to make the railroad's roadbeds a liquid asset thus enabling the bankrupt railroad to reduce its liabilities, to save on the amortization costs attached to its roadbed, and to provide for the creation of new capital needed by railroads to modernize their equipment and to improve their service.

Third, since the railroad rights-of-way authority could lease the use of its roadbed to more than one railroad, it could provide for competitive service to communities being served by an inefficient railroad.

Fourth, no new bureaucracy would be created, and the operation of the newly created National Rail Passenger Corp.—Amtrak—would be simplified. Since the railroad rights-of-way authority would have no operational authority, only authority to appraise, condemn, and issue bonds for rail rights-of-way, there would only be the need for a very small number of personnel to operate the authority. Since Amtrak could contract directly for the costs of the roadbeds it would use with the railroad rights-of-way authority instead of contracting through existing railroads which are only concerned with freight service, Amtrak would be better able to ascertain the true costs of its roadbed usage and would be in a better position to contract for a better treatment of its passenger trains vis-a-vis freight trains.

I believe if this proposal was enacted it would be a great boon to the Northeast. It could mean the end to Penn Central's bankruptcy, a modernization and improvement of Penn Central's freight service, and a return to sound financial footing for all the railroads serving the Northeast.

My own State of Rhode Island has been particularly hard hit by Penn Central's bankruptcy in terms of direct job loss from Penn Central and in terms of damage done to my State's industry due to the lack of reliable and low-cost freight service.

This proposal I am offering today would reverse, I would hope, that situation.

I know that one nationally known businessman in my own State, Mr. Royal Little, believes this proposal can make that difference.

His imaginative thinking has provided the inspiration for this proposal; and I believe that his well-known financial sagacity should provide confidence in us. This proposal is one of substance and one that is economically viable. I realize its chances of passage in this Congress are limited. But this is an approach and an idea that I believe not only has merit, but will come to be, and the sooner the better. I know I will fight for it as hard as I can.

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

S. 4017

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 "Regional Railroad Rights of Way Authority Act".

DEFINITIONS

SEC. 2. For the purposes of this Act the term—

(1) "Authority" means the Regional Railroad Rights of Way Authority established pursuant to section 3 of this Act;

(2) "railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1 (3));

(3) "railroad right of way" means real property which is owned by a railroad and is within 300 feet on either side of a track, the roadbed for such track, and such structures and devices as are permanently installed on such real property, and may include such additional realty adjoining such real property as the Authority deems necessary for the purposes of this Act.

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to assist railroads, which because of financial problems are having difficulty providing adequate transportation services, by purchasing from such railroads their rights of way and providing for the continued use of such rights of way by lease.

REGIONAL RAILROAD RIGHTS OF WAY AUTHORITY

SEC. 3. (a) There is established in the executive branch of the Government an independent agency to be known as the Regional Railroad Rights of Way Authority. The Authority shall be subject to the supervision and direction of a Board of Trustees which shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate, for terms of five years, except that the terms of four of the trustees first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, and one at the end of four years. A vacancy shall be filled only for the unexpired portion of any term and trustees shall hold office until their successors are appointed. Trustees shall serve on a full-time basis and shall be compensated at the rate provided for level III of the Federal Executive salary schedule.

(b) The President shall designate the trustee to serve as Chairman and as Vice Chairman. Three trustees shall constitute a quorum.

FUNCTIONS OF THE AUTHORITY

SEC. 4. (a) The Authority—

(1) shall, after obtaining two independent appraisals of value, acquire by purchase or condemnation all right, title, and interest to the rights of way of any railroad in the United States which is undergoing reorganization under section 77 of the Bankruptcy Act, and provide compensation therefor with obligations issued pursuant to clause (2);

(2) shall issue, after consultation with the Secretary of the Treasury, and have outstanding in such amounts as are necessary for the purposes of carrying out its functions pursuant to clause (1) and for redeeming obligations issued pursuant to this clause, negotiable obligations which (A) are not obligations of the United States but are secured by the assets of the Authority, (B) are in denominations of \$200,000 each, (C) bear interest, which shall be exempt from Federal, State, or local income taxes, at a rate of at least 5 per centum, determined by the Authority, (B) have maturities of at least 30 years but not to exceed 50 years, determined by the Authority and are not redeemable before maturity, and (E) shall be redeemed at maturity by the Authority;

(3) shall enter into a lease or leases with each railroad from which right of way is so acquired providing (A) for the use of all or part thereof by such railroad at a rate determined by the Authority on a per car or other equitable basis but amounting on a per annum basis to not less than 5 per cent

tum of the amount paid for such right of way, and (B) for maintenance in accordance with standards established by the Authority to be carried out by such railroad, except that in any case approved by the Secretary of Transportation the Authority may lease the use of such right of way to one or more additional railroads at such rate and in such event the minimum provided in this clause shall apply to the total received from all such railroads; and

(4) may enter into such arrangements as may be appropriate for the use or disposition of property acquired pursuant to this Act which is not thereafter leased to a railroad or otherwise necessary for rail transportation purposes.

(b) Amounts received by the Authority in carrying out its functions pursuant to this Act may be deposited in a special fund in the Treasury which shall be available to the Authority, without appropriation, for carrying out the purposes of this Act or may be used to purchase interest bearing obligations of the United States.

(c) Property owned by the Authority shall not be subject to State or local taxes.

TAX FREE EXCHANGES

SEC. 5. For the purpose of the Internal Revenue Code of 1954 the receipt by a railroad of bonds pursuant to section 4(1) of this Act and the receipt of any such bonds from a railroad in payment of any part of its capital indebtedness shall be treated as an exchange to which section 1031 (relating to tax free exchanges) applies.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In addition to any authority vested in it by other provisions of this Act, the Authority, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) appoint employees, subject to the civil service laws, as necessary to carry out its functions, define their duties, and supervise and direct their activities;

(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized in title 5 of the United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized in title 5 of the United States Code for persons in the Government service employed without compensation;

(5) rent office space in the District of Columbia or outside thereof; and

(6) make other necessary expenditures.

(b) The Authority shall submit an annual report to the President for transmittal to the Congress on or before the 15th day of January of each year. Such report shall summarize the activities of the Authority for the preceding year, and may include such recommendations as the Authority deems appropriate.

APPROPRIATIONS AUTHORIZED

SEC. 7. There is authorized to be appropriated not to exceed \$_____ to the Authority for administrative expenses only during the initial two years pursuant to this Act.

By Mr. KENNEDY:

S. 4020. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

PROTECTION OF MAGAZINES FROM RISING SECOND CLASS POSTAL RATES

Mr. KENNEDY. Mr. President, I send to the desk for appropriate reference a

bill to alleviate the impact of the Postal Service's new second-class mailing rates on the Nation's magazines and other publications, and I ask that it may be referred to the appropriate committee.

I do not introduce this legislation lightly, the Postal Reorganization Act of 1970 established the U.S. Postal Service, a quasi-governmental, self-governing entity, to replace the traditional Post Office Department. Many hours of thought and expertise were spent in deciding the appropriate administrative procedures that would be necessary to allow the new Postal Service to function effectively. An important result of this legislation has been the general "hands-off policy" applied by Members of both the House and the Senate—that is, a strong reluctance by Congress to interfere in the ongoing decision of the new agency.

At the same time, however, I believe that in cases such as the present, involving an across-the-board increase of 127 percent in the postal rates charged magazines and other periodicals, there are overriding considerations of public policy that require Members of Congress to speak out.

Some weeks ago, I joined with Senator GAYLORD NELSON, of Wisconsin, and a number of other Senators in supporting legislation (S. 3758) in the Senate to help mitigate the unfair impact of these new rates. Now, I am pleased to join with Congressman MORRIS UDALL, of Arizona, in introducing new legislation in the Senate and the House of Representatives to alleviate the crisis.

The death of some of the Nation's most popular magazines in recent years because of financial hardship attests to the very real danger posed to all publications by the new rate increases. The backbone of our free society is the robust exchange of ideas. That is why I believe the present situation is one in which the simplistic economic standard applied by the Postal Service in determining the rate increases must yield to the more important standard of freedom of the press enshrined in the first amendment.

The bill that I am joining Congressman UDALL in introducing contains four principal provisions:

First, it establishes a 10-year period for phasing in the increases for all second-class publications, rather than the current 5-year program. The phasing in will take place in 2-year steps, with the next adjustment occurring in July of 1974.

Second, a ceiling of 66½ percent of the applicable rates is established for the first 250,000 copies of any publication. In this way, important new protection is provided for small volume magazines and other journals.

Third, all future rate increases for nonprofit magazines would be borne one-half by the publishers and one-half by congressional appropriations.

Fourth, the bill provides for automatic funding to pay the cost of these Federal postal subsidies. In this way, it will be possible to guarantee that adequate funds will always be available to protect the Nation's magazines, instead of subjecting them to the vagaries of the annual appropriations process.

There is little doubt that the postal rate increases are a death sentence for many of the Nation's magazines. It is my hope that the new Congress which convenes next January will make this issue one of its first priorities.

In the face of the overwhelming threat, Congress must act promptly to alleviate the burden of this confiscatory rate increase, and to prevent the demise of many publications that serve a cherished historical purpose in our democracy. They may not have the clout to challenge the administration and the Postal Service on their own, but that is why Congress sits.

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

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

S. 4020

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

(a) Section 3626 of title 39, United States Code, is amended—

(1) by inserting "(a)" immediately before "If the rates of postage for any class of mail or kind of matter";

(2) by striking out "with annual increases as nearly as practicable, so that—" and inserting in lieu thereof "with annual increases as nearly equal as practicable for mail under former sections 4421, 4422, 4452, and 4454, and with biennial increases (after 1972) as nearly equal as practicable for mail under former sections 4358 and 4359, so that—";

(3) by inserting "(and the ninth year in the case of mail under former section 4358)" immediately after "tenth year" in paragraph (1);

(4) by deleting "4359," in paragraph (2);

(5) by deleting the word "and" at the end of paragraph (1), deleting the period at the end of paragraph (2) and inserting in lieu of the period a semicolon and the word "and", and adding immediately below paragraph (2) the following new paragraph (3):

"(3) the rates for mail under section 4359 shall be equal, on and after the first day of the ninth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail, if this subsection had not been enacted.";

(6) by adding immediately after "unless he files annually with the Postal Service a written request for permission to mail matter at such rates." the following new sentence: "Notwithstanding any other provision of this section, rates established by the Postal Service for the first 250,000 pieces of each issue of a publication of a class or kind authorized to be mailed under former sections 4358 and 4359 of this title shall not exceed 66½ percent of the otherwise applicable temporary or permanent rate then in effect."; and

(7) by adding at the end of such section the following new subsections:

"(b) Notwithstanding any other provision of this title, the revenues received from rates for mail under former section 4358 shall not exceed 50 percent of the amount that would otherwise be received from any increase in rates for such classes required by the provisions of this chapter after July 6, 1972, if this subsection (b) had not been enacted."

"(c) Notwithstanding any other provision of this title, the revenues received from rates for mail under former section 4359 shall not exceed 50 percent of the amount that would otherwise be received from any increase in rates for such classes established in any proceeding under the provisions of