Calendar No. 1015
92d Congress, 2d Session
Senate Report No. 92–1050 (Part 1)

REVENUE SHARING ACT OF 1972

REPORT

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS

COMMITTEE ON FINANCE
UNITED STATES SENATE

TO ACCOMPANY

H.R. 14370

A BILL TO PROVIDE PAYMENTS TO LOCALITIES FOR HIGH-PRIORITY EXPENDITURES, TO ENCOURAGE THE STATES TO SUPPLEMENT THEIR REVENUE SOURCES, AND TO AUTHORIZE FEDERAL COLLECTION OF STATE INDIVIDUAL INCOME TAXES

AUGUST 16, 1972.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
82-043 O
WASHINGTON : 1972

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REVENUE SHARING ACT OF 1972

AUGUST 16, 1972.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany H.R. 14370]

The Committee on Finance, to which was referred the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

The Revenue Sharing Act of 1972 (H.R. 14370) represents a landmark in Federal-State-local fiscal relations.

The committee believes the basic purpose of this bill should be to provide the States and localities with a specified portion of Federal individual income tax collections to be used by them in accordance with local needs and priorities and without the attachment of strings by the Federal Government. The bill is amended by the committee to achieve this result. The aggregate distributions under the committee version of the bill (beginning January 1, 1973) are $1 billion above the House bill. Like the House bill, the bill reported by the committee distributes $5.3 billion of revenue sharing funds to the State and local governments effective January 1, 1972. This amount is increased by a $300 million annual increment in each of the four succeeding years, reaching a level of about $6.5 billion by the fourth succeeding year. In addition to this, however, beginning in 1973 the committee bill also authorizes payments to State and local governments in place of payments now made for social services in the amount of $1 billion a year. These are called supplemental sharing grants. (Federal social service

funds will continue for child care and family planning under the Social Security Act.)

Of the $5.3 billion of revenue sharing funds made available in 1972, two-thirds or about $3.5 billion is made available under both versions of the bill to cities, counties, and other local governments. The remaining one-third, or about $1.8 billion in 1972, is made available to State governments. (The $1 billion grant to State and local governments for supplemental sharing grants also is divided between the States and local governments on a one-third—two-thirds basis, starting January 1, 1973.)

Both versions of the bill also provide for a growth in the revenue sharing funds up to a level of $6.5 billion by the fifth year of the program. They also divide the funds between the local governments and the State governments on a two-thirds—one-third basis.[1]

While the aggregate revenue sharing funds distributed to the State and local governments under the House bill and under the committee's bill are substantially the same,[2] the formula for distribution by States of both the amounts going to the States and the amounts going to the local governments differ substantially in the two versions of the bill.

First, the committee, instead of of having one formula for distributions to the States and another for distributions to local governments within the States, has a single formula for allocating funds to the States and for allocating funds among the localities.

Second, the bill reported by the committee provides that the funds distributed to the States are to take into account the general tax effort and the relative differences of the States in the income levels of their residents. The committee's bill takes these same factors into account in distributions within the States to county areas and again in determining the distribution among the municipalities. These same factors were to some extent also taken into account in the House formulas. However, the House formulas gave no recognition to relative income levels in the distributions for the State governments. The effect of this was to ignore "need" as a factor in the State government distributions.

Third, the committee omitted the income tax incentive feature of the House bill in the case of the distributions to the States. The committee believed that it was undesirable to attempt to dictate to the States the structure of their tax laws.

Fourth, in the distributions to local governments the House bill took "urbanization," but not tax effort, into account. A testing of various formulas in this area convinced the committee that "tax effort" generally is a better means of assuring a fairer (and generally larger) distribution of funds to the larger cities—where the need for assistance is greater—than was the "urbanization" factor in the House bill. Urbanized population was used, however, in the State distributions under the supplemental sharing grants because this replaces social service grants which have in large measure been associated with urbanized States.

Fifth, the relatively greater emphasis on "relative incomes" in the committee formula also gives assurance that the needs of rural areas,

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[1] Under the committee bill, this one-third—two-thirds distribution applies in the case of each State. Under the House bill, this was the division between States and their localities in the aggregate.

[2] With the exception that the committee's bill divides the $300 million a year growth factor between the States and local governments in the same manner as the original distribution, while the House bill allocates the growth factor entirely to the States.

which usually have relatively low income levels, will be adequately dealt with in the bill.

Sixth, the committee bill does not attach "strings" as to how the funds distributed to the local governments must be spent (except for an anti-discrimination provision and a provision prohibiting the use of funds to match Federal grants). The House bill would have required the funds to be used only for a limited number of so-called high-priority purposes. On the other hand, the committee believes that one of the principal virtues of revenue sharing is the fact that this program is different from the categorical grant programs. If "no strings are attached," the funds may be spent by the local government for what the local citizenry recognize as their high-priority purposes, rather than having priorities established by the Federal Government for them which could conflict with their own interests.

In the area of social services, the committee bill continues 75 percent matching under the Social Security Act for child care and family planning services, as under present law. Other social services would generally not be eligible for 75 percent Federal matching, as they are now. Instead, a new $1 billion program of Federal grants, referred to as supplemental sharing grants, requiring no State matching funds, is initiated. This is distributed among the States on the basis of urbanized population. Within each State the funds are distributed among the various localities in the same proportions as the revenue sharing funds.

Table 1 compares the distribution by States provided in the bill with the distributions provided by the original administration proposal and the House bill. This table takes into account the funds distributed to the State and local governments under the supplemental sharing grants. As indicated in this table, the aggregate funds allocated to States under the committee bill are greater than those under the House bill for all but five States.

Table 2 shows, by States, the distribution of total grants under the committee bill to the State and local governments.

Table 3 shows the per capita allocations under the House bill and under the committee bill for larger cities of each State. Also shown are the amounts distributed to the counties in which these cities are located.

As suggested above, this indicates that the distributions to larger cities in the United States are generally significantly larger under the committee bill than under the House bill.

While the distributions within the States for the first year are established by the committee bill, the States are given the authority after that time to vary the distributions substantially to the extent they believe conditions in their States warrant. Specifically, they are given the authority to take into account population multiplied by tax effort and population multipled by relative income (inversely), giving whatever weights to these factors they deem desirable. However, this authority may be exercised only once in the 5-year period.

As under the House bill the committee bill provides that States are also given the option to request Federal collection of their State individual income taxes under a "piggyback" arrangement whereby the State tax is collected in conjunction with the Federal tax. This is to be available only for 1974 and later years, and only then if States representing 5 percent or more of individual income tax returns have requested the Federal Government to collect these taxes for them.

TABLE 1.—DISTRIBUTION OF FUNDS TO STATES UNDER ADMINISTRATION PROPOSAL, HOUSE AND FINANCE COMMITTEE VERSIONS OF H.R. 14370 AND DIFFERENCES IN THE AMOUNTS DISTRIBUTED UNDER THE THREE VERSIONS OF THE BILL

[Amounts in millions of dollars]

States	Administration proposal [1]	House bill [2]	Committee bill [3]	Differences between— House bill and administration proposal	Committee bill and administration proposal	Committee bill and House bill
United States, total	5,000.0	5,300.0	6,300.0	300.0	1,300.0	1,000.0
Alabama	82.1	80.2	138.2	−1.9	56.1	58.0
Alaska	8.6	6.6	6.2	−2.0	−2.4	−.4
Arizona	51.4	46.1	64.7	−5.3	13.3	18.6
Arkansas	43.0	38.3	65.2	−4.7	22.2	26.9
California	590.2	610.8	644.4	20.6	54.2	33.6
Colorado	60.1	59.4	71.8	−.7	11.7	12.4
Connecticut	59.2	72.6	74.9	13.4	15.7	2.3
Delaware	13.4	17.3	15.8	3.9	2.4	−1.5
District of Columbia	22.9	26.0	20.4	3.1	−2.5	−5.6
Florida	167.4	150.0	194.6	−17.4	27.2	44.6
Georgia	107.5	103.4	136.3	−4.1	28.8	32.9
Hawaii	23.5	25.9	26.4	2.4	2.9	.5
Idaho	20.1	15.4	23.6	−4.7	3.5	8.2
Illinois	219.8	301.8	316.2	82.0	96.4	14.4
Indiana	115.8	113.8	134.5	−2.0	18.7	20.7
Iowa	74.5	67.8	91.6	−6.7	17.1	23.8
Kansas	54.2	47.7	64.5	−6.5	10.3	16.8
Kentucky	78.2	71.8	105.2	−6.4	27.0	33.4
Louisiana	101.5	83.2	138.9	−18.3	37.4	55.7
Maine	22.9	19.9	36.7	−3.0	13.8	16.8
Maryland	92.7	117.5	116.3	24.8	23.6	−1.2
Massachusetts	136.2	179.0	179.5	42.8	43.3	.5
Michigan	229.1	243.7	257.9	14.6	28.8	14.2
Minnesota	107.8	114.1	124.0	6.3	16.2	9.9
Mississippi	61.3	46.0	105.1	−15.3	43.8	59.1
Missouri	96.4	107.6	129.9	11.2	33.5	22.3
Montana	18.8	16.7	24.3	−2.1	5.5	7.6
Nebraska	39.0	34.5	52.0	−4.5	13.0	17.5
Nevada	13.9	12.2	14.7	−1.7	.8	2.5
New Hampshire	15.0	13.5	18.5	−1.5	3.5	5.0
New Jersey	153.8	179.7	193.0	25.9	39.2	13.3
New Mexico	31.8	22.5	39.0	−9.3	7.2	16.5
New York	534.1	649.6	625.1	115.5	91.0	−24.5
North Carolina	113.3	113.0	161.4	−.3	48.1	48.4
North Dakota	20.5	12.0	23.2	−8.5	2.7	11.2
Ohio	212.5	227.4	240.5	14.9	28.0	13.1
Oklahoma	63.7	52.9	74.0	−10.8	10.3	21.1
Oregon	56.9	60.1	70.0	3.2	13.1	9.9
Pennsylvania	246.2	300.9	347.6	54.7	101.4	46.7
Rhode Island	20.8	25.9	29.3	5.1	8.5	3.4
South Carolina	56.7	57.9	95.9	1.2	39.2	38.0
South Dakota	18.8	13.5	29.3	−5.3	10.5	15.8
Tennessee	86.8	79.3	120.4	−7.5	33.6	41.1
Texas	243.0	248.3	326.0	5.3	83.0	77.7
Utah	28.7	29.0	40.6	.3	11.9	11.6
Vermont	11.9	11.0	17.4	−.9	5.5	6.4
Virginia	104.6	115.6	129.6	11.0	25.0	14.0
Washington	92.0	79.1	107.8	−12.9	15.8	28.7
West Virginia	41.7	36.4	61.8	−5.3	20.1	25.4
Wisconsin	124.4	137.0	164.2	12.6	39.8	27.2
Wyoming	11.4	6.1	11.5	−5.3	.1	5.4

[1] The administration proposal would have distributed funds to the States on the basis of population weighted by general revenue effort. This is for fiscal year 1972.

[2] The House bill would have distributed $1,800,000,000 to the States based on general State and local tax effort, and State individual income tax receipts, and $3,500,000,000 to the local units of government within each State based on 3 factors: population, urbanized population, and relative income. This is the amount for the last six months of the fiscal year 1972 placed on an annual basis.

[3] The committee formula for distributing revenue sharing funds to the States is based on State population multiplied by the inverse of the State relative per capita income (the lower the per capita income the higher the weight of the factor) multiplied by tax effort (State and local tax collections as a percentage of total personal income in the State). The amounts shown also include the supplemental sharing grants. These are distributed on the basis of urbanized population (with a 30-percent floor). The revenue sharing distribution is the amount for the last six months of fiscal 1972, placed on an anntual basis. The supplemental sharing grants shown are those which first become applicable on January 1, 1973.

Note: Details may not add to totals because of rounding.

TABLE 2.—DIVISION OF REVENUE SHARING FUNDS AND SUPPLEMENTAL SHARING GRANTS BETWEEN STATE AND LOCAL GOVERNMENTS UNDER FINANCE COMMITTEE BILL[1]

[Amounts in millions of dollars]

States	Total revenue sharing and supplemental sharing grant	State governments' share	Local governments' share
United States, total	6,300.0	2,100.0	4,200.0
Alabama	138.2	46.1	92.1
Alaska	6.2	2.1	4.1
Arizona	64.7	21.6	43.1
Arkansas	65.2	21.7	43.5
California	644.4	214.8	429.6
Colorado	71.8	23.9	47.7
Connecticut	74.9	25.0	49.9
Delaware	15.8	5.3	10.9
District of Columbia [2]	20.4	6.8	13.5
Florida	194.6	64.9	129.6
Georgia	136.3	45.4	90.9
Hawaii	26.4	8.8	17.6
Idaho	23.6	7.9	15.7
Illinois	316.2	105.4	210.8
Indiana	134.5	44.8	89.7
Iowa	91.6	30.5	61.1
Kansas	64.5	21.5	43.0
Kentucky	105.2	35.1	70.1
Louisiana	138.9	46.3	92.6
Maine	36.7	12.2	24.5
Maryland	116.3	38.8	77.5
Massachusetts	179.5	59.8	119.7
Michigan	257.9	86.0	171.9
Minnesota	124.0	41.3	82.7
Mississippi	105.1	35.0	70.1
Missouri	129.9	43.3	86.6
Montana	24.3	8.1	16.2
Nebraska	52.0	17.3	34.7
Nevada	14.7	4.9	9.8
New Hampshire	18.5	6.2	12.3
New Jersey	193.0	64.3	128.7
New Mexico	39.0	13.0	26.0
New York	625.1	208.4	416.7
North Carolina	161.4	53.8	107.6
North Dakota	23.2	7.7	15.5
Ohio	240.5	80.2	160.3
Oklahoma	74.0	24.7	49.3
Oregon	70.0	23.3	46.7
Pennsylvania	347.6	115.9	231.7
Rhode Island	29.3	9.8	19.5
South Carolina	95.9	32.0	63.9
South Dakota	29.3	9.8	19.5
Tennessee	120.4	40.1	80.3
Texas	326.0	108.7	217.3
Utah	40.6	13.5	27.1
Vermont	17.4	5.8	11.6
Virginia	129.6	43.2	86.4
Washington	107.8	35.9	71.9
West Virginia	61.8	20.6	41.2
Wisconsin	164.2	54.7	109.5
Wyoming	11.5	3.8	7.7

[1] Division is ⅔ to local governments and ⅓ to State governments.
[2] Division between State and local governments does not apply.

Note: Details may not add to totals due to rounding.

TABLE 3.—PER CAPITA ALLOCATIONS UNDER HOUSE AND COMMITTEE BILLS FOR SELECTED CITIES AND THEIR COUNTY GOVERNMENTS

[Amounts in millions of dollars]

State and city	House bill		Committee bill	
	Per capita amount to county governments	Per capita amount to city governments	Per capita amount to county governments	Per capita amount to city governments
Alabama:				
Birmingham*	$10.10	$16.47	15.51	28.07
Mobile	6.42	19.23	12.11	35.49
Huntsville	5.73	18.93	7.44	24.80
Alaska:				
Anchorage*	4.69	12.35	7.49	16.31
Fairbanks [2]	9.70	9.70	20.25	20.25
Arizona:				
Phoenix*	5.36	15.86	5.99	20.58
Scottsdale	5.36	14.67	5.99	11.44
Tempe	5.36	16.15	5.99	11.74
Arkansas:				
Little Rock*	6.52	16.52	6.12	21.40
North Little Rock	6.52	17.70	6.12	8.05
Fort Smith	7.46	14.36	7.31	14.86
California:				
Los Angeles*	10.72	10.55	11.84	14.58
San Francisco [2]	19.59	19.59	31.21	31.21
San Diego	9.68	12.29	8.43	10.85
Colorado:				
Denver* [2]	21.14	21.14	31.45	31.45
Colorado Springs	7.93	21.14	5.77	14.81
Pueblo	10.51	13.97	14.95	19.88
Connecticut:				
Hartford*	(3)	24.10	(3)	23.91
Bridgeport	(3)	20.91	(3)	18.96
New Haven	(3)	21.88	(3)	23.91
Delaware:				
Wilmington*	7.39	38.21	8.58	27.87
Dover	6.00	16.31	6.33	21.44
District of Columbia	(3)	34.37	(3)	26.97
Florida:				
Jacksonville*	4.27	2.64	8.16	10.51
Miami	9.78	19.88	10.41	27.71
Tampa	8.17	18.83	11.48	27.08
Georgia:				
Atlanta*	(1)	14.31	(1)	11.44
Savannah	10.16	14.49	14.25	21.89
Macon	8.34	14.21	11.69	19.91
Hawaii:				
Honolulu* [2]	17.67	17.67	22.11	22.11
Idaho:				
Boise*	8.45	20.05	7.14	17.26
Pocatello	6.84	10.90	10.38	17.32
Idaho Falls	7.82	6.53	9.29	12.38
Illinois:				
Chicago*	3.38	17.49	3.50	23.75
Rockford	4.05	17.72	3.51	15.81
Springfield	5.68	13.13	4.77	11.26
Indiana:				
Indianapolis*	6.57	13.78	5.56	12.05
Fort Wayne	6.11	17.68	5.28	15.51
Gary	8.99	13.80	11.08	22.55
Iowa:				
Des Moines*	8.16	12.68	7.56	13.06
Sioux City	8.76	12.50	11.91	16.99
Council Bluffs	10.38	10.65	10.00	10.22
Kansas:				
Wichita*	8.45	12.31	6.44	9.45
Topeka	6.66	15.24	5.29	12.11
Kansas City	9.24	12.10	9.05	11.96
Kentucky:				
Louisville*	6.14	22.17	10.19	31.60
Lexington	4.35	25.02	6.17	31.60
Frankfort	3.54	12.31	7.64	26.54
Louisiana:				
New Orleans* [2]	21.70	21.70	30.38	30.38
Baton Rouge	(4)	20.15	(4)	23.16
Lake Charles	8.51	13.67	15.41	27.70
Maine:				
Portland*	.75	20.73	1.17	32.00
Augusta	.59	14.26	1.45	23.79
Bangor	.62	15.82	1.95	31.92

TABLE 3.—PER CAPITA ALLOCATIONS UNDER HOUSE AND COMMITTEE BILLS FOR SELECTED CITIES AND THEIR COUNTY GOVERNMENTS—Continued

[Amounts in millions of dollars]

State and city	House bill		Committee bill	
	Per capita amount to county governments	Per capita amount to city governments	Per capita amount to county governments	Per capita amount to city governments
Maryland:				
Baltimore*	(4)	21.37	(4)	28.66
Hagerstown	8.67	7.02	21.64	17.18
Annapolis	14.22	8.69	24.64	15.05
Massachusetts				
Boston*	(4)	21.45	(4)	30.50
Cambridge	1.48	19.41	1.45	22.81
Springfield	1.10	20.81	1.29	29.85
Michigan:				
Detroit*	4.88	17.00	6.76	28.09
Grand Rapids	7.62	15.07	7.10	15.77
Ann Arbor	6.94	14.15	4.57	8.12
Minnesota:				
Minneapolis*	9.01	11.11	7.15	13.23
St. Paul	7.74	12.70	8.00	17.13
Duluth	8.37	9.37	16.03	14.39
Minnetonka	9.01	10.12	7.15	4.34
Mississippi:				
Jackson*	5.75	19.04	9.64	33.01
Biloxi	8.47	17.53	11.96	20.47
Columbus	3.79	18.84	10.71	31.20
Missouri:				
St. Louis* [2]	21.39	21.39	26.84	26.84
Kansas City	(1)	16.20	(1)	27.14
Jefferson City	1.64	12.74	2.03	15.84
Springfield	5.84	16.42	5.98	16.83
Independence	3.30	17.10	4.86	12.77
Montana:				
Helena	6.19	6.62	9.57	10.23
Billings*	9.58	13.47	8.82	12.24
Butte	8.62	6.06	22.79	16.04
Great Falls	12.00	11.04	13.40	12.33
Nebraska:				
Lincoln	6.20	16.08	5.51	14.30
Omaha*	7.51	14.49	5.46	12.70
Scottsbluff	8.33	7.11	14.83	16.31
Nevada:				
Las Vegas*	12.19	9.93	12.23	10.87
Carson City	6.74	3.76	9.39	5.24
Reno	8.79	11.60	9.82	13.69
New Hampshire:				
Manchester*	1.62	22.77	1.62	24.31
Portsmouth	1.67	24.76	1.69	24.31
Concord	1.44	14.96	2.53	20.66
New Jersey:				
Newark*	6.52	15.89	8.43	26.03
Trenton	5.71	18.09	6.23	21.76
Camden	8.27	16.23	7.31	23.81
New Mexico:				
Albuquerque*	3.59	22.17	5.02	30.99
Santa Fe	1.72	13.42	3.94	27.64
Clovis	4.01	11.02	4.59	12.61
New York:				
Albany	5.77	16.14	3.72	11.87
Buffalo	8.79	14.71	8.99	16.74
New York* [2]	20.12	20.12	33.13	33.13
Syracuse	8.15	17.30	7.44	17.57
Rochester	11.74	10.40	8.88	8.18
North Carolina:				
Charlotte*	7.62	15.50	5.68	22.05
Greensboro	9.23	12.51	7.61	22.84
Raleigh	10.63	11.05	7.73	16.80
North Dakota:				
Bismark	3.85	8.71	5.84	13.21
Minot	4.42	11.03	6.14	15.28
Grand Forks*	1.52	13.28	1.52	13.29
Ohio:				
Cleveland*	5.63	15.36	5.05	21.83
Columbus	6.56	14.86	4.65	12.26
Cincinnati	3.90	21.05	4.43	21.83
Toledo	3.75	17.09	2.85	13.52

Footnotes at end of table.

TABLE 3.—PER CAPITA ALLOCATIONS UNDER HOUSE AND COMMITTEE BILLS FOR SELECTED CITIES AND THEIR COUNTY GOVERNMENTS—Continued

[Amounts in millions of dollars]

State and city	House bill		Committee bill	
	Per capita amount to county governments	Per capita amount to city governments	Per capita amount to county governments	Per capita amount to city governments
Oklahoma:				
Midwest City	5.67	15.45	7.10	11.82
Oklahoma City*	(1)	14.89	(1)	23.05
Tulsa	(1)	16.95	(1)	11.31
Oregon:				
Eugene	3.67	26.22	3.44	25.44
Portland*	(1)	18.52	(1)	27.29
Salem	(1)	19.68	(1)	28.59
Pennsylvania:				
Harrisburg	6.37	17.85	6.11	21.42
Philadelphia* [2]	21.21	21.21	28.49	28.49
Pittsburgh	6.74	15.94	9.33	28.49
Scranton	6.67	15.35	8.08	23.08
Rhode Island:				
Cranston	(4)	21.30	(4)	16.71
Providence*	(4)	22.67	(4)	29.80
Warwick	(4)	20.67	(4)	12.64
South Carolina:				
Columbia*	5.33	31.13	9.43	21.26
Charleston	11.01	32.69	14.52	35.81
Greenville	6.93	34.96	10.88	35.81
South Dakota:				
Pierre	7.38	4.64	12.78	8.03
Rapid City	5.57	8.83	8.82	13.97
Sioux Falls*	6.31	16.23	6.17	15.89
Tennessee:				
Chattanooga	8.82	16.97	12.46	24.56
Knoxville	5.52	20.73	6.22	26.23
Memphis*	8.22	13.75	11.14	19.29
Nashville [2]	20.60	20.60	17.43	17.43
Texas:				
Austin	5.72	16.55	3.87	11.20
Houston*	(1)	17.13	(1)	15.13
San Antonio	4.99	19.62	3.94	15.82
Utah:				
Salt Lake City*	6.36	10.04	15.96	28.52
Ogden	4.38	7.89	8.01	17.57
Vermont:				
Montpelier	.10	13.04	.22	37.88
Burlington*	.11	14.06	.26	33.00
Virginia:				
Richmond [2]	20.68	20.68	26.95	26.95
Norfolk* [2]	21.37	21.37	26.95	26.95
Alexandria [2]	19.08	19.08	18.65	18.65
Washington:				
Olympia	5.14	11.86	6.94	16.42
Spokane	7.95	18.47	10.21	24.96
Seattle*	6.75	19.99	6.68	23.84
West Virginia:				
Charleston	5.78	21.87	9.78	34.24
Huntington*	(1)	20.60	(1)	27.09
Martinsburg	7.17	12.78	6.49	11.33
Wheeling	7.00	15.85	11.36	26.70
Wisconsin:				
Green Bay	8.50	15.16	9.85	17.70
Kenosha	7.00	14.98	10.43	22.31
Madison	6.48	13.01	6.21	13.70
Milwaukee*	9.55	11.23	14.40	19.19
Wyoming:				
Cheyenne*	5.93	7.48	9.09	11.48
Casper	6.57	5.46	12.99	10.80
Laramie	5.89	6.95	9.36	11.04

* Largest city in the State.
[1] In more than 1 county.
[2] City-county.
[3] State has no counties.
[4] No county government.

Note: These per capita amounts are based on the local governments' share shown in table 2 and 1970 census population.

II. REASONS FOR THE BILL

The Financial Problems of State and Local Governments

The financial soundness of our State and local governments is essential to our Federal system. However, the committee's studies have led it to the conclusion that the State and local governments now face financial problems of a most severe nature. Today, it is the States, and even more especially the local governments, which bear the brunt of our more difficult domestic problems. The need for public services has increased manyfold and their costs are soaring. At the same time, State and local governments are having considerable difficulty in raising the revenue necessary to meet these costs.

The statistics on State and local expenditures illustrate dramatically why State and local governments are experiencing such severe financial problems. Between the fiscal years 1955 and 1970, State and local general expenditures rose almost three times in current dollar terms—from $33.7 billion to $131.3 billion. Moreover, some governmental units have been forced to increase their spending even more rapidly. In the fiscal year 1965, for example, New York City spent $3.4 billion; its budget for fiscal year 1972 calls for spending about $9 billion.

This dramatic increase in spending at the State and local level has come about in response to a number of developments. Population growth generally, and the increased size of our cities; especially, have increased manyfold the need for more extensive services. The inflation which has been experienced in recent years has added greatly to costs. Since 1966, for example, the prices paid by State and local governments for goods and services have risen about a third.

This rapid increase in State and local expenditures has also been accompanied by a substantial growth in State and local revenues. Between 1955 and 1970, State and local general revenues from all sources rose from $31.1 billion to $130.8 billion. During this period, their tax revenues alone more than tripled. From 1946 to 1970, State and local revenues (excluding Federal grants-in-aid) rose at an annual average rate of about 9.7 percent—a rate substantially above the increases which occurred in the other major sectors of the economy.

However, increases in State and local tax revenues have recently become increasingly more difficult to obtain. In large part, this has occurred because to a substantial degree these tax revenue increases have had to be obtained by rate increases.

Moreover, while most State and local governments are experiencing financial difficulties, for many core cities the financial problems are particularly acute. The flight of middle income and high income people to the suburbs has left core cities with the severe fiscal burden of providing services to large numbers of relatively low income people who are able to pay only a relatively small share of the cost of government services. However, the financial problems are not confined to the cities. Small communities, including many in rural areas, are also encountering financial distress, particularly where their inhabitants are poor and the tax base is limited.

The Federal Government's Budget Position

The committee, of course, recognized that the Federal Government too has financial problems, as demonstrated by the substantial budget deficits that the Federal Government has incurred in recent years.

In the fiscal year 1972, the unified budget deficit amounted to $23 billion; and in the fiscal year 1971, there was an almost identical deficit. The administration has projected a unified budget deficit of $27 billion for the fiscal year 1973. However, there is considerable danger under current conditions that the deficit will be considerably larger than this figure.

The committee believes that steps need to be taken to improve the Federal budget position, but it questions whether the presence of large deficits in the Federal budget should in itself preclude Federal aid to State and local governments in view of the vital need for such aid. To do so would imply that State and local fiscal assistance has a lower priority than all other present expenditures, a position the committee does not accept. It believes that in view of the pressing financial problems of the State and local governments, the new program of Federal aid provided by H.R. 14370 represents one of the nation's most vital needs. As a result, the fact that the Federal budget is in a large deficit position—as undesirable as that may be—is no more a justification for deferring this State and local fiscal assistance than it would be for deferring a large number of other vital needs. It should also be noted that the budgets for the fiscal years 1972 and 1973 already make provision for a program of Federal aid approximately equal in cost to that provided by this bill. As a result this bill will not increase these budget deficits significantly beyond the levels already projected.

The Need for a New Type of Federal Aid to State and Local Governments

The Federal Government has recognized the increasing need for financial assistance at State and local levels. In fact, Federal grants-in-aid have grown rapidly since World War II. In fiscal year 1959, for example, Federal aid to State and local governments amounted to $6.7 billion; for the fiscal year 1973, it is estimated at $38.8 billion (exclusive of the aid provided by this bill). In addition, there are other indirect sources of aid to State and local governments. For example, the fact that State and local taxes may be deducted under the Federal income tax reduces the net additional burden of State and local taxes on taxpayers. Preliminary information for 1970 shows that deductions amounting to slightly over $31 billion were claimed on taxable Federal income tax returns for State and local taxes. In terms of Federal tax revenues, it is estimated that this involves a revenue loss of about $8 billion. A second example of indirect aid to State and local governments is the exemption of interest on State and local bonds from the Federal income tax. One of the effects of this is to reduce the cost of State and local borrowing. It is estimated that this exemption involved a further cost of approximately $2 billion to the Federal Government in 1970.

Despite the extensive nature of the present aid, the committee has concluded, after careful study of the complex problems involved, that there is a need for additional aid, but aid of a different type. The committee reached this conclusion after holding full public hearings on proposals for Federal assistance and after considering this problem in depth in executive sessions on the proposals.

This study indicated to the committee that the present Federal aid leaves a significant gap in the financial assistance provided to State

and local governments. In part this is because the amount of the present aid is inadequate, especially where the residents have small incomes and the cost of essentials for government is high. In part, this is because the present aid programs generally are of the categorical type and often do not provide for the most pressing purposes. Instead, they provide aid for specific and frequently relatively narrowly defined purposes. Moreover, they often require local matching funds which, in many instances, imposes a financial strain on the local governments and causes a shift of local funds to areas of lesser priority to the local governments. While State and local governments, under certain Federal programs, may retain some flexibility in spending such categorical aid, there are ordinarily severe limitations to this flexibility. The broad purpose of the committee bill is to provide additional help for the States and localities in a form which will give them greater flexibility in the use of the funds than does the present categorical aid system.

Limitation of the Aid to a Specific Amount for a Specified Time

While recognizing the need of States and localities for further fiscal assistance, the committee believes that it is essential that the amount of revenue sharing should be set at a specific figure so that the cost of the program will be definite and ascertainable beforehand. Moreover, since the program is new, it is important that it be designed initially to run for some specified and limited period of time. This will automatically provide the Congress with an opportunity to review the program when the initial program expires in order to ascertain whether it should be continued or revised. It may be, for example, that assistance may be needed for only a temporary period of time: until the States are able to put their own revenue houses in order and until the localities can recover from the twin hardships of rising costs because of inflation and the slow growth of revenue because of the slack in the economy. It may also develop that a different form of fiscal assistance will be needed when experience has been gained.

These considerations led the committee to the conclusion that specific amounts of aid should be provided both in the case of the States and the local governments and that it should be provided for a specific period of time. As a result, the committee set the annual amount of revenue sharing at a specific figure—starting at the rate of $5.3 billion in the initial period and increasing by an additional $300 million a year after the first full year. While this is the same total amount of regular revenue sharing funds as provided by the House bill, as is indicated below, the committee also provided an additional $1 billion a year in supplemental sharing grants which replace social service grants (other than those for child welfare and family planning). The committee bill also differs from the House bill in that the $300 million of annual increments are distributed one-third to State governments and two-thirds to the local governments. The House bill proposes to distribute the entire $300 million increment to the States.

The committee's bill, like the House bill, starts the 5-year aid program on January 1, 1972. In selecting this date for starting the aid program, the committee gave very considerable consideration to the revenue effect and other issues involved in permitting the aid to be granted for a period prior to the adoption of the legislation. How-

ever, it concluded that a January 1, 1972, starting date was appropriate, particularly in view of the extensive time that the Congress has taken to consider this program and the fact that many State and local governments have already taken the aid into consideration in their budgets.

The 5-year period should be sufficient for the states and localities to become acquainted and adjusted with the program before the Congressional review occurs.

Five-Year Appropriation of Revenue Sharing Funds to Trust Fund

The Committee bill provides that the revenue sharing funds set aside (and out of which specific dollar amounts referred to above are to be paid) are to be 7 percent of Federal individual income tax collections (3½ percent of these collections for the half year periods involved). These funds are to be set aside in a trust fund for distribution to the State and local governments. The purpose is to return to these governmental units a portion of the income tax payments made by their residents to the Federal Government. The procedure followed in this case provides for appropriations in the identical manner as has been followed in the past in the case of the Old Age and Survivors' Insurance Trust Fund, as well as in the case of other Social Security Act trust funds. Provisions for appropriations for the life of the program are essential to permit the States and localities to plan their budget programs in advance. One of the primary difficulties with the categorical aid programs provided under present law is that they usually are subject to annual appropriations which often are not available until the year is far advanced. This has seriously injured the efforts of the localities to plan for the economical and wise use of these funds. Provision for the appropriation of a percentage of Federal income tax collections for a five-year period avoids this result.

Distribution of Revenue Sharing Funds

The formulas for distributing the revenue sharing funds to State and local governments in the committee's bill differ from those in the House bill. In this regard the committee believes it has adopted formulas which are more efficient than the House formulas in achieving the objectives of revenue sharing—that is, they more closely follow the basic principle of "putting the money where the needs are." At the same time, the formulas in the committee's bill avoid a number of serious problems raised by the House formulas.

In contrast with the House bill, the committee's bill provides consistent treatment in allocating these funds to State and local governments. It does this by using the same standard formula for the distributions to both State and local governmental units. As noted above, this standard formula initially distributes the total revenue sharing funds among State areas (which include the States and their local governments) on the basis of population weighted by relative income levels (so that the lower the income, the greater the amount of the aid) and further weighted by tax effort. In other words the standard distribution formula is population multiplied by a relative income factor and a tax effort factor. The population and relative income factors recognize that the need of a governmental unit for Federal aid increases with the size of its population and with the degree of poverty of its residents. The tax effort factor, by taking taxes raised relative to

income into consideration, recognizes that greater Federal aid should be given to those States and local governments that make a relatively greater effort to finance their own needs—in other words, these governmental units are being encouraged to help themselves.

The House formula, as it applied to the States, distributed funds only on an incentive basis—that is, on the basis of general tax effort and on the basis of income tax collections. This ignored the need to distribute funds going to the States to some extent at least in accordance with the difference in income levels among the States. Under the committee bill the greater needs of the poorer States are recognized.

Moreover, by taking income tax collections into account under the House formula, the Federal Government, in effect, would be dictating to the State governments the nature of their tax structure, a result to which the committee objected. This feature of the House bill discriminates markedly against States with either no income tax or low income taxes. This would distort the choices made by States in determining the appropriate nature of their revenue systems in light of the particular conditions affecting them. The formula employed in the committee bill, by dealing only with general tax effort in this respect, avoids these deficiencies.

In distributing funds to local governments the House formula gave equal weight to population, urbanization, and relative income levels. The urbanization factor, and to some extent the relative income factor, were designed to accord significant relief to core cities faced with especially serious financial problems. However, this formula also had the effect of distributing relatively large amounts to well-to-do suburbs, reducing the amounts available for distribution to low income rural areas as well as to the central core cities. In large measure the difficulty with the House formula in this regard stems from the emphasis it places on urbanized areas which include not only the core cities but also the surrounding suburbs.

The committee bill, by emphasizing both low income levels and tax effort, channels more funds to the larger cities as well as to the rural areas with relatively low income levels. New York City, for example, will receive $33.13 per capita under the committee bill as compared to $20.12 per capita under the House bill; Detroit will receive $28.09 per capita instead of $17.00; and Gary, Indiana, $22.55 per capita instead of $13.80 (for other illustrations see table 3 in the first part of this report).

Distribution to the States of the Supplemental Sharing Grants

Under the committee amendments, the $1 billion provided in place of the present system of social service grants is allocated among the States in proportion to their urbanized population. This is done in recognition of the fact that, in general, the more heavily urbanized States have, in recent years, been making relatively substantially greater use of social service grants. However, a "floor" is provided in recognition of the fact that these funds are significant to all the States, including those that have little or no "urbanized" population. As a result, each State is treated under this formula as though at least 30 percent of its population is urbanized population. The committee determined to allocate funds on the basis of this formula, rather than on the basis of current use of social services money, because the latter

would merely be a measure of the promptness with which a State made current use of these funds and not a measure of the need of the State for the assistance. In other words, the committee was not convinced that current needs for these programs are proportional to current expenditures for such programs.

The two-thirds of this $1 billion which is distributed to local governments is distributed to them in the same proportion as those units' entitlements under the revenue sharing program. As indicated above this formula emphasizes the central cities and the poor rural areas, both of which are areas in which social services are needed.

Division of Funds Between State and Local Governments

The committee agreed with the House that local governments (including cities, counties, towns, and townships) should receive two-thirds of the total aid funds as compared with one-third for State governments. In contrast to the House bill, however, the committee bill provides a similar two-thirds—one-third division in each State. The committee reached this conclusion in large part because local governments generally appear to be in a more precarious financial position than State governments and therefore have a correspondingly greater need for assistance. Much of their financial difficulty appears to derive from two root causes. First, localities, because of their jurisdictional limitations, often are unable to draw on tax resources of those residing outside of their boundaries, although these persons often make substantial use of the governmental services of the localities. Second, the power of localities to enact tax measures usually is limited by the powers delegated to them by their State legislatures or by their State constitutions. Traditionally, the property tax has been the principal tax source allocated to the local governments. Moreover, when attempts have been made to allocate other revenue sources to the localities—such as sales taxes—tax avoidance behavior has resulted, with purchases being shifted to nontax municipalities. The use of payroll taxes also has sometimes encouraged employers to locate their facilities outside the boundaries of a particular locality.

Still another reason to allocate a larger share of the funds to localities is the fact that generally local governments account for about two-thirds of aggregate State and local expenditures.

As under the House bill, the committee's bill increases the initial $5.3 billion of annual revenue sharing payments by annual increments of $300 million so that by the fifth year, the aid reaches an annual rate of about $6.5 billion. This bill, however, provides that these annual $300 million increments are to be divided among the localities and the States in the same proportion as the initial $5.3 billion of annual payments—namely, two-thirds to the local governments and one-third to the State governments. The House bill allocated the entire amount of the $300 million increments to the State governments. The committee made this change because it believes that the same considerations which apply to the division of the initial $5.3 billion of aid funds to the States and localities apply with equal force to the increases made in later years. The committee bill also uses the same one-third—two-thirds allocation in distributing the supplemental sharing grants among the States and their localities.

Distributions to Local Governments Generally

The committee's bill, like the House bill, distributes the funds to virtually all of the 38,700 active counties, townships, and incorporated municipalities (i.e., general purpose local governments). The committee concluded that the problems of local governments are not necessarily exclusively associated with the size of the community. Large cities, small villages, townships, and counties all may have serious financial problems. The committee recognized, however, that the financial needs of localities vary and, as is indicated in more detail below, dealt with this need by making provision for the distribution of funds in part on the basis of relative income levels of people living in the different communities, in part by taking into account differences in their tax effort, and in part on the basis of population.

Unlike the House bill, the committee bill provides a floor and a ceiling on the per capita amount any local government may receive: neither a county area nor a local government can receive less than 20 percent of the average per capita amount allocated to local governments in the entire State, nor may it receive more than 145 percent of this average.

The bill limits the amount allocable to any county, township, or municipality so that the allocation to the community cannot account for more than half of the taxes it raises from its own sources and also those it receives as intergovernmental transfers from other governments. In addition, to deal with situations where the local government provides little or no services, the bill contains a *de minimis* rule providing that no allocation is to be made to a locality unless the allocation is at least $200. Generally, however, this will deny allocations only to the very smallest of communities—perhaps those of 12 to 15 people or fewer.

Right of States To Change Local Distribution Formulas

The committee's bill also gives each State considerable flexibility in adopting a formula for distributing the total funds allocated to its local governments. For the first 12 months of the program, the funds must be distributed to the specific local governments on the basis of the standard formula described above—namely, population weighted by tax effort and inverse per capita income.

However, after the first 12 months, any State may, if it wishes, continue to have the funds distributed to its local governments on the basis of the standard formula or it may, by law, choose to have the distribution made on the basis of two alternative factors. These alternative factors are population weighted by relative income and population weighted by tax effort. For this purpose, the State may select one of these two alternative factors for its formula or it may use any combination of the two factors. The State may also choose to use an alternative formula for distribution among county areas, among cities within a county area, or both. However, because it did not believe this formula should be subject to frequent change, the committee provided that the States could vary these formulas only one time.

This right to establish its own formulas will permit each State to channel the funds to its local governments in accordance with their particular needs. As a result, if a State believes that it is desirable to grant a relatively large portion of the funds on the basis of relative

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poverty it can do this by emphasizing the alternative factor weighting population by relative income levels. Conversely, relatively more funds could be distributed on the basis of population weighted by tax effort if it is desired to place greater emphasis on taxes raised locally.

Elimination of High-Priority Items

The committee believes that the State and local governments will be able to make most efficient use of the aid funds if they are given the authority to determine how these funds are to be used. To a considerable extent, the adoption of the revenue-sharing program stems from the need to avoid the problems inherent in many categorical programs which specify how the recipient governmental unit is to spend the funds. Such categorical aid programs may result in forcing the recipient governmental unit to spend the funds for the specified purpose even though the governmental unit may have other more urgent needs to finance.

The committee's bill is designed to provide a new program of Federal aid to the States and local governments which will not be subject to the same type of limitations as the categorical aid programs and which will permit these government units flexibility to use the funds most advantageously in the public interest. In other words, the broad purpose of this legislation is to fill a gap in the present aid programs by granting State and local governments complete flexibility in the expenditure of the new aid funds so as to supplement the present categorical aid and to secure a more balanced and efficient system of Federal aid.

The House bill is inconsistent with this broad objective of general revenue sharing in that its language requires the local governments to spend the aid funds only for specified high-priority items—namely, maintenance and operating expenses for public safety, environmental protection, and public transportation and capital expenditures for sewage collection and treatment, refuse disposal systems, and public transportation. In the opinion of the committee, forcing local governments to spend their aid funds for these listed items would inevitably prevent them from achieving the optimum expenditure pattern from the standpoint of their needs.

Moreover, the adoption of the high priority items in the House bill merely results in substantially complicating the mechanics of the aid program without any real substantive effect on spending by the local governments. A complicated and elaborate procedure would be required to determine that the local governments spend the aid funds only on the high priority items. However, since the local governments are not required to maintain the level of their own prior expenditures on the high priority items (i.e. expenditures financed out of their own revenue sources), as a practical matter, they could arrange to use the aid funds to increase their spending for other than high priority items. As a result, provision for the high-priority categories, at best, is illusory.

State Authority to Require Local Governments to Spend Aid Funds on Area-Wide Projects

The committee deleted the provision in the House bill which allows a State to require each local government in an area directly affected by one or more area-wide high priority projects to spend up to

10 percent of its entitlement for specific area-wide projects. Granting States the right to direct their local governments to spend a specified portion of their entitlement on specific area-wide projects would be contrary to the underlying principle of the legislation which is to permit the local governments to determine how they will spend their aid funds.

Applicability of the Davis-Bacon Act

The House bill required each local government, as a condition for receiving funds under the bill, to establish to the satisfaction of the Secretary of the Treasury that all laborers and mechanics employed by contractors and subcontractors on construction financed in whole or in part from revenue sharing funds would 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. The committee's bill deletes this requirement on the ground that it is no more appropriate to specify the wage rates that are to be paid with aid funds in such cases than to specify how the local governments are to spend the funds.

State Governments as Well as Local Governments Must Place Revenue Sharing Funds in Trust Funds

The committee's bill requires the States as well as local governments to deposit their revenue sharing receipts in trust funds. The House bill required only local governments to establish these trust funds. The committee has extended this trust fund requirement to States on the ground that it will facilitate a review and evaluation of the revenue sharing program by the Congress. This will aid the Congress in determining whether the revenue sharing program should be continued, revised, or terminated at the end of the 5-year period specified in the legislation.

Reports and Public Disclosure of the Uses Made of Aid Funds

The committee's bill provides that State and local governments are to make annual reports to the Treasury Department indicating how they plan to spend the revenue sharing funds as well as how they have actually spent such funds in past periods. The States and local governments must also publish these reports in general circulation newspapers within their geographic areas and make them available to all communications media within their geographic areas. The purpose is to provide the residents of these governmental units with information regarding the use made of the revenue sharing funds. It is anticipated that these reports will provide both information on dollar expenditures by purpose and information on the additional employees and capital equipment that the funds were used for.

The committee views this public reporting requirement as a substitute for the requirement in the House bill that the funds be spent by the localities only for certain national high-priority purposes. The committee believes that it is better that the funds be spent for locally determined high-priority purposes, since it is at this level where the specific needs of the community are best known and can best be evaluated. It believes the best way of assuring that the funds are spent in this manner is by requiring a full disclosure to the local citizenry in advance as to how it is proposed that the revenue sharing funds

are to be spent. The reports to the Treasury Department and to the public made after the expenditures occur also give assurance that the local government officials are accountable for the expenditures actually made.

Federal Collection of State Income Taxes

The committee's bill generally accepts the House provisions for the Federal Government to offer to collect and administer State individual income taxes under a voluntary arrangement with those States which wish to have the Federal Government perform this tax collection and administration service for them. To meet this need, the bill makes provision for Federal administration and collection, or "piggybacking," of State individual income taxes in those cases where States request this service. For the Federal Government to perform this collection function, it will be necessary for the States entering into the agreement to conform their income taxes generally to the Federal income tax.

Since it will take time for many States to make the necessary conforming changes in their income taxes, the committee's bill provides that the piggyback provision will not go into effect before January 1, 1974. Moreover, since the operation of such a piggyback system involves costs to the Federal Government, it would not be desirable to put the program into effect until a significant number of taxpayers are covered under electing systems. Accordingly, the committee's bill provides that the piggybacking program will go into effect on or after January 1, 1974, but only at such time as one or more States, accounting for at least 5 percent of the taxpayers in the United States, request Federal collection of their income taxes.

This effective date procedure for the piggyback provision is the same as in the House bill except that the latter would have required five States, accounting for at least 5 percent of the taxpayers in the United States, to request Federal collection of their income taxes before putting the piggyback system into effect. The committee deleted this requirement that five States request the Federal Government to collect their income taxes before any Federal collection is to occur, because it believes that it would be economically feasible for the Federal Government to start the piggyback system when 5 percent of the taxpayers in the United States were covered by that system regardless of the number of States involved.

In making this collection service available, the committee is impressed by the fact that a significant number of States have, of their own accord, already adopted income taxes that conform substantially with the Federal income tax laws. Currently, 28 States with income taxes (out of 41 with general income taxes) have adopted the Federal tax base; that is, they use the Federal definition of adjusted gross income and often the Federal definition of itemized deductions, as starting points in determining income subject to State tax. In addition, three other States and the District of Columbia have tax bases which bear a major resemblance to the Federal base. Of the States which conform to the Federal tax base, four actually compute their tax as a percent of the Federal tax: Alaska, Nebraska, Rhode Island, and Vermont.

Federal collection of State income taxes offers a number of substantial potential advantages. It should, for example, make an im-

portant contribution to more effective administration of our income tax laws. The fact that there are widely different income taxes in the various States which vary in significant degree from the present Federal income tax law makes it necessary to have different sets of administrators, each familiar with, and expert in, the particular tax laws that they administer. By encouraging standardization of the State income tax laws on the basis of the Federal approach, piggybacking will reduce the costs of administration.

Studies indicate that Federal tax administration costs are substantially less than the States' average costs. In part, this is because the larger size of the Federal operation and the greater uniformity of its jurisdiction appear to provide economies of scale. Federal collection of State income taxes under the piggyback provisions should make it possible for the States to share in the benefits of the relatively more efficient Federal administration.

The resulting standardization of State income tax laws under the piggyback provisions also will simplify the job of preparing tax returns for taxpayers. At present, taxpayers are faced with the confusing task of completing and filing separate tax forms for their Federal and State income taxes. Often the differences in information required by the State and Federal income tax system necessitate the maintenance of different sets of records.

Moreover, a significant increase in State tax revenue should result from consolidation of the administration of Federal and State income taxes.

Finally, States entering into agreements to have the Federal Government administer and collect their income taxes should also initially gain revenue because Federal regulations have substantially shortened the time within which an employer must deposit income taxes withheld from employees. Such deposits now must be made within 3 banking days after the end of each quarter of the month in the case of collections amounting to $2,000 or more. This is substantially faster than is required by any of the States. The aggregate additional amount that potentially could be received by all States currently having individual income taxes as a result of such a withholding speedup would be about a billion dollars, assuming forgiveness of no part of the added fiscal year tax payments.

III. GENERAL EXPLANATION OF REVENUE SHARING AND SUPPLEMENTAL SHARING PROVISIONS

1. CREATION OF, AND APPROPRIATIONS TO, REVENUE SHARING TRUST FUND (SEC. 102 OF THE BILL)

To insure that a constant source of funds will be available for the 5-year duration of the revenue sharing program, a trust fund is created by the bill, and appropriations are made to this trust fund of 7 percent of individual income tax receipts (3½ percent in the case of half year entitlements) for the period the bill is effective.

The trust fund created on the books of the United States Treasury for this purpose is to be known as the "Revenue Sharing Trust Fund." Money appropriated to the trust fund is to be available without fiscal year limitation. The Secretary of the Treasury may estimate the

amount of individual income tax to be received in a fiscal year for purposes of determining the amount to be transferred to the trust fund.

Although it is expected that, normally, amounts appropriated to the fund will be disbursed promptly on at least a quarterly basis, this availability without fiscal year limitation is needed in the case of holdbacks of funds, and also because the first entitlement period (i.e., the last half of the fiscal year 1972) has already ended.

Trust fund moneys may be used only for payments to State and local governments under this subtitle and so may not be used, for example, to cover the expenses of administering this subtitle. Amounts in the trust fund that are determined not to be needed for revenue sharing payments are to be transferred to the general fund of the Treasury.

The Secretary of the Treasury is to be the trustee of the fund and is to report to the Congress not later than March 1 of each year on the operation and status of the fund during the preceding fiscal year.

As indicated above, the revenue sharing funds available for payments to State and local governments will begin at an annual rate of $5.3 billion and will increase by $300 million each year after the first 12 months. For the last entitlement period covered under the bill (the first 6 months of fiscal year 1977), the amount appropriated is $3.325 billion, or $6.65 billion on a full-year basis. (These amounts are in addition to the $1 billion annual supplementary grants, discussed under sec. 121, below.) These funds are to be appropriated out of any amounts in the general fund of the Treasury attributable to Federal individual income tax collections not otherwise appropriated. In general, the program is to be operated on a fiscal year basis which is described as an entitlement period in the bill.

2. PAYMENTS TO STATE AND LOCAL GOVERNMENTS (SEC. 103 OF THE BILL)

Each State and local government is to be paid by the Secretary of the Treasury out of the trust fund an amount of money in each entitlement period that has been determined to be its proper share under the allocation procedures, described below. The payments for each entitlement period are to be made in installments during the entitlement period but not less often than once each calendar quarter and not necessarily in equal amounts per quarter. (Payments for any calendar quarter already ended before enactment of the bill are to be made as soon as practical after the bill's enactment.)

When necessary, before final data are available, payments may be made on the basis of estimates. In such cases, and in the case of adjustments required for any other reason (e.g., to correct an error in the underlying data or their transcriptions), adjustments may be made to correct previous deficiencies and excesses. These adjustments, to the extent they are due to estimates or clerical errors (but not because data for later years becomes available) may be made in later payments in the same quarter, in the same entitlement period, or in a later year if necessary. The committee expects, however, that in any event they will be made as promptly as practicable.

3. ALLOCATION AMONG STATES (SEC. 104 OF THE BILL)

Amounts available for allocation.—Of the amounts transferred to the Trust Fund for regular revenue sharing (see discussion of sec. 102 of the bill, above), the following amounts are to be available for allocation for each of the entitlement periods: $2.65 billion for January–June 1972, $5.45 billion for the fiscal year 1973, $5.75 billion for the fiscal year 1974, $6.05 billion for the fiscal year 1975, $6.35 billion for the fiscal year 1976, and $3.325 billion for July–December 1976. In addition the bill authorizes the expenditure of $1 billion a year beginning January 1, 1973 for supplementary grants (see discussion under sec. 121 of the bill).

State allocation formula.—The House bill provided separate allocations to State governments and to local governments. For the State governments, an initial appropriation of $1.8 billion was allocated among the States with one-half of the distribution based on general tax effort and the other half based on collections under the States' individual income tax laws. A separate fund of $3.5 billion was made available in the House bill for local governments, which was to be distributed among the county, municipal, and township governments on the basis of a formula involving three factors—resident population, urbanized population, and population weighted inversely by relative per capita income. Each factor was given equal weight in the distribution, and each initially determined the distribution of one-third of the $3.5 billion allocated to local governments.

The House based part of the distribution of funds to State governments on State income tax collections in order to provide an incentive to State governments to adopt or increase individual income taxes. The greater a State's income tax effort, in general, the greater would be the amount allocated to it on the basis of that factor. The House also included the general tax effort factor because it believed that this factor would provide appropriate recognition of the willingness of a State to use its tax resources as effectively as possible.

The committee believes that there are inadequacies in this provision of the House bill. Most important, the distribution of the State governments' share among States provides no explicit recognition of the relative needs of the States, as would be shown in comparisons of relative income. Furthermore, the committee has concluded this bill should take a neutral position which leaves the people of each State free to adopt the tax structure most suitable to their needs and resources as they see them—and that the bill should not pressure the States to adopt or increase income taxes. However, the committee believes that the States need encouragement to do more for themselves and that an allocation based on a measure of general tax effort provides both incentive and equity.

The Finance Committee decided that a more efficient and equitable allocation of fiscal assistance funds among the States and the local governments could be made with a single formula. As a result, the committee developed a formula that is based upon a multiplication of population, tax effort and inverse relative per capita incomes. Thus, the formula in the committee amendment allocates funds among the States by multiplying for each State its resident population (as determined in the 1970 decennial census) by the total tax effort of the State and

local governments within the State, and by multiplying this product by the relative per capita income of the State. (These terms are more fully explained below, in the discussion of sec. 105.) The products determined in this way for each State then are to be aggregated. Each State's proportionate share of the revenue sharing funds for an entitlement period is to be determined by the ratio of that State's product of the three factors to the sum of the products for all the States.

One-third of the allocation determined in this way for each State area is to be distributed to that State's government, and the remaining two-thirds is to be allocated among the State's local governments. While the House bill in aggregate divided the funds between the States and the localities on a one-third—two-thirds basis, in specific States the division of funds between the State government and localities varies widely from this ratio since their relative sharing depends on the application of the two separate distribution formulas.

In selecting the factors used in this formula, the committee gave explicit recognition to the importance of the size of population upon government burdens. The tax effort factor is included in order to distinguish among governments in terms of the overall pressure of their taxes on their community tax base. As a result, the States with the heaviest tax burdens, in terms of the income levels of their residents, receive relatively larger allocations.

With the third factor, the committee is providing further benefits to the States with per capita incomes below the national average. By taking this factor into account in the formula, the committee is recognizing the difficulty experienced by the poorer States in raising funds for public services. In such situations the multiplicative character of the formula enhances the weight of relatively low income and high tax effort, by contrast with additive formulas, such as those used in the House bill.

Maintenance of effort.—The Finance Committee agrees with the provisions in the House bill that require each State government to continue to use its own funds to assist all units of local government (not limited purpose governments and special taxing districts) within the State to the same extent that had been done previously. Therefore, the bill provides that a State may receive the full revenue sharing amount allocable to it for an entitlement period beginning after June 30, 1973, only if it distributes as much to its local governments in the aggregate from its own sources, on the average during that entitlement period and the immediately preceding entitlement period, as it did in fiscal year 1972 (one-half of this amount in the case of the last entitlement period, July through December 1976). If it fails to do so, the amount that otherwise would be distributed to the State is to be reduced dollar for dollar by the reduction in its aid to its localities. Any such reduction is to be treated as a distribution by the State to its local governments to avoid penalizing a State more than once for a single shortfall.

This differs from the House bill in that the House bill compared the fiscal year 1972 distributions with those of the then current entitlement period, instead of with the average of the two entitlement periods.

For purposes of determining its maintenance of effort, a State which has assumed part or all of the responsibility for a category of expendi-

tures which was the responsibility of its local governments before July 1, 1972, may reduce the amount it must distribute to its local governments by an amount which equals the increased State spending out of its own sources for the category of expenditures assumed by the State.

If the Secretary of the Treasury determines that a State has not maintained its effort and that a reduction in its entitlement should be made, he must first give reasonable notice and opportunity for hearing to the State. After doing so, if he continues to believe that a reduction in the State's entitlement should be made, he must determine the amount of the reduction, notify the governor of the State that the enitlement will be reduced because of the failure of the State to maintain its effort, and withhold further revenue sharing payments to the State in an amount equal to the reduction in that State's maintenance of effort from subsequent allocations under the bill. This reduction is subject to judicial review (as provided in section 143 of the bill). Any reduction in the entitlement of a State which occurs by reason of this provision does not increase the entitlements of the other States. Instead, on the day on which any such reduction becomes final, an amount equal to the reduction is to be transferred to the general fund of the Treasury from the Revenue Sharing Trust Fund.

4. ALLOCATIONS TO LOCAL GOVERNMENTS (SEC. 105 OF THE BILL)

In the House bill, $3.5 billion was allocated for local governments. Each government's share was to be determined according to three equally weighted factors—resident population, urbanized population, and relative per capita income. The formula would be applied to determine each county area's proportionate allocation under each of the factors. The division of the county area allocation between the county government and the other units of local government would be determined by the ratio of the adjusted taxes raised by the county government to the adjusted taxes raised by all governments in the county, including the county government. Where township governments exist and provide general government services, the division of the remaining county area allocation among township and municipal governments also would be made on the basis of relative adjusted taxes. Allocations to local governments would be determined on the basis of the resident population and relative per capita income of each municipality relative to the others in the county. The allocation to the municipal governments attributable to urbanized population would be divided proportionately between the two other factors.

State governments were provided with the opportunity to substitute optional formulas for the basic formula used in the House bill for determining allocations within a State area. A State could elect to weight population by a tax effort factor, which was defined as the ratio of adjusted taxes to the income of the municipality's residents. In addition, the State government could choose to vary the weights assigned to the factors by decreasing them as much as 25 percent or increasing them as much as 40 percent—so long as the total adds to 100 percent. The States also could use one formula and weights for determining the allocations among county areas, and another combination of factors and weights to determine the allocation within county areas. The House bill also provided that each State's optional formulas must be

uniform throughout the State, must be prospective, and could not go into effect before July 1, 1973.

Under the committee amendment, the amount allocated to a State under the basic formula in the committee bill is divided two-thirds to the local governments in that State and one-third to the State government (see description of sec. 104 of the bill, above). The two-thirds available for allocation to the local governments is then allocated among country areas [3] on the basis of the same formula used to allocate funds among the States. In this case, however, the population taken into account is the population of the various county areas and the tax effort taken into account is the "adjusted taxes" raised by the county government and all units of local government within the county area divided by the income of the residents of the county area.

"Adjusted taxes" means all tax revenue minus the amount attributable to financing education. This adjustment for education taxes is made principally to place all units of local government on an equal basis without regard to whether they finance their schools through the regular budget of the unit of general purpose local government or whether they provide for schools through independent school districts (which are not eligible for funds under this bill); this adjustment is not made, however, in determining tax effort at the State level. In addition, because of the fact that school districts frequently overlap other jurisdictions, crossing city, township, and sometimes county lines, it would be virtually impossible to attribute the taxes raised by a school district to the residents of a particular unit of general purpose local government which would have to be done if school taxes were to be included for all units of general purpose local government.

The relative income taken into account is the per capita income of the county area compared to that of the State (i.e., population weighted by a fraction the numerator of which is the State per capita income and the denominator of which is the county area per capita income, so that if the county area income level is below that of the State average, the county area income will receive a weight greater than 1).

The funds allocated to a county area are then allocated between the county government on the one hand, and the aggregate of the other local governments in that county on the other hand, on the basis of their relative adjusted taxes.

For example, in a county which has a number of cities which perform most of the governmental functions for the residents of those cities, assume that the county government raises 10 percent of all the revenue raised by the governmental units in the county and that the cities, in the aggregate, raise the remaining 90 percent. If a total of $5 million is to be allocated to the county area on the basis of the three factors, then the county government is to receive $500,000 (10 percent of the total) as its entitlement. The remainder of the distribution to the county area, $4.5 million, is to be distributed among the governments of the cities within the county.

In those States which have active township governments that actually raise taxes and perform governmental functions, the township

[3] As indicated below, for any part of the state where there is no county, the next unit of local government below the state level will be treated as a county. In other words, this allocation to county areas is intended to cover the entire geographic area of the State, whether or not part of that area is within what is technically called a county.

governments will share in the same manner as the municipal governments. For example, assume in the illustration above that the county government raises 10 percent of the total taxes, the governments of the townships in the county raise (in the aggregate) 50 percent of the total taxes, and the cities in the county raise (in the aggregate) the remaining 40 percent. Thus, the county government is to receive $500,000 as its entitlement, the township governments (in the aggregate) are to receive $2.5 million to share among themselves, and the cities (in the aggregate) are to receive $2 million to share among themselves.

After the funds allocated to a county area have been divided between a county government and the units of local government within the county as indicated above, the local governments' share is distributed among the eligible units of local government on the basis of the same formula that was used to distribute funds to the States and the county areas. In this case, however, a local government's share depends on its population relative to the population of all other eligible units of local government within the county area, and its tax effort (adjusted taxes of that locality divided by the income of the local residents) and the relative income of that local government's residents compared to that of other eligible local governments in that county area. More specifically, a particular local government's share of the funds to be distributed to local governments within the county area is determined by multiplying its population by its tax effort index and by a fraction whose numerator is the county area per capita income and whose denominator is the per capita income of the local government's residents. This weighted figure for each local gvoernment within the county area is totaled, and a particular local government's share depends on the proportion its weighted number is of the total weighted numbers of all the eligible units of local governments in that county area.

Where there are township governments which collect taxes and perform governmental functions, the funds allocated to the township governments (in the aggregate) within a county are to be further allocated to each township government in that county in the same manner as that which has been described with regard to further allocations among city governments.

In addition to the basic allocation formula described above, there are several additional factors which determine the share a local government will actually receive. These rules apply to county governments, city governments, and township governments.

Constraints, minimum and maximum.—The committee was aware that no formula can equitably distribute funds to all the State and local governments in this country without producing occasional extreme results—the kind of result that reflects the great diversity of local government in this country. In order to insure that such results do not take place and provide some community with an unusually large allocation, or on the other hand, allocate almost no funds to another community, the committee decided that it would place maximum and minimum limitations on the allocations to county and other local governments. The maximum and minimum limitations are defined in terms of the per capita allocation available to the local governments within each State. Specifically, the minimum limitation is to be 20 percent of the per capita allocation to all local governments in the State, that is, 20 percent of two-thirds of the allocation to any State area divided by the

resident population of that State. The maximum limitation for any county area or local government in the State is 145 percent of the per capita allocation to all local governments in the State.

In the event that the allocation to a county area or to a unit of local government is reduced because it exceeds the 145 percent maximum limitation, the amount of the reduction may be allocated among the other county areas within the State or among the other units of local government within the same county, respectively, as the government which had its allocation reduced.

In the event the county area is initially entitled to an allocation that is less than 20 percent of the statewide average, its allocation will be increased to the 20 percent level. In such event, the amount of money that is given to the county area in order to increase its allocation to the minimum level may be taken from other county areas within the State. Similarly, if a unit of local government within a county initially is entitled to receive an allocation that is less than 20 percent of the per capita allocation for local governments, its allocation may be increased by taking funds from the allocations to other units of local government in the county. (No attempt is made in this discussion to describe all of the ways in which amounts may be allocated because of these minimum and maximum rules.)

In the course of making adjustments of the allocations to county governments and units of local governments under the maximum and minimum limitations, the Secretary of the Treasury, or his delegate, is authorized to decide upon the sequence of adjustments among the local governments within a county area, and among the county areas when the adjustments are made at that level, but the adjustments are to be made to county areas before any adjustments are made to units of local government within the counties.

50-percent limitation.—In addition to the maximum and minimum constraints upon the per capita allocations to county and local governments, there is another limitation upon the grant that a county or local government may receive. Under this limitation the county or local government may not receive an allocation that exceeds 50 percent of its adjusted taxes plus intergovernmental transfers of revenue during the corresponding preceding fiscal year. (For a half-year entitlement period, the corresponding period is the same six calendar months of the immediately preceding fiscal year.) This limitation is applied to total adjusted taxes plus intergovernmental transfers, and does not apply on a per capita basis. In the event that the allocation to a local government or to a county government is reduced because of the operation of this limitation, the excess will be allocated to the next higher level of government. In the case of a municipal or township government, the excess would go to the government of its county. In the case of a county government, the excess would be redistributed to its State government.

$200 de minimis.—The committee retains the provision in the House bill which placed a $200 minimum on the allocation to any unit of local government. In the case of the January–June 1972 and July–December 1976 short entitlement periods, the *de minimis* amount is $100. It is the committee's understanding that this limitation would affect a very small number of governments, and it is probable that governments with approximately 12 or more citizens would not be affected by this cutoff. Where this *de minimis* rule applies the amount of the

allocation shall be added to the allocation of the county government of the county in which the unit of local government is located.

Waiver of entitlement.—The committee also retains the provision of the House bill that if any government waives its right to funds under the bill for an entitlement period, then (as in the case of the *de minimis* rule, above) the waived entitlement is to become part of the entitlement of the government of the county in which the local government waiving its entitlement is located.

Formula changes by the States.—The committee recognizes that the governments in some States may believe that the formula in the committee bill does not allocate funds among its county areas and the municipalities within its counties in a manner that is most effective to accomplish the basic purposes of revenue sharing. In order to permit State governments to employ their more intimate knowledge of the needs and requirements of the State for efficient and equitable revenue sharing, the committee has provided that the State government may employ alternative formulas for the distribution of the allocations among the county areas and among the municipalities within the county. (The House bill also provided State governments with the opportunity to employ an alternative formula to determine the allocations within a State.) The committee believes that the optional formulas should be based fundamentally upon the factors that it has employed in its formula for determining the allocations. The committee, however, has provided that the factors in the formula may be combined in a different fashion than in the basic formula provided in the bill. A State may use as its optional factors population multiplied by the general tax effort factor and population multiplied by the relative per capita income factor. In adopting its formula, the State may weight these two factors equally or it may vary the weights for each of these factors between zero and 100 percent. Where both factors are employed in the optional formula, they will be used additively and each will affect a different sum of money; that is, if the two factors are weighted equally, one-half of the amount available for allocation will be distributed on the basis of population multiplied by the general tax effort factor and the other half will be allocated on the basis of population multiplied by the relative per capita income factor. The State government may provide one optional formula for the allocation to the county areas and a different formula for the allocation among the local governments within a county area. For example, the distribution among county areas may be based upon a 75 percent weight applied to the general tax effort factor and 25 percent weight applied to the relative per capita income factor. For the allocation within the counties, the State law may provide that both factors will be weighted equally. Any such change must be applied uniformly throughout the State, i.e., to all county areas, or all units below the county areas, or both.

A State may adopt an optional formula for distribution within the State area as early as for the period January–June 1973. There is a requirement, however, that the State provide the Secretary of the Treasury with at least 30 days' notice of its change in formula. With respect to the period beginning on January 1, 1973, a State will have to notify the Secretary of its adoption of an optional formula no later than December 2, 1972. In order to strike a balance between the interest

of a State in matching the formula to its needs and the interests of local governments in planning their budgets, the bill provides that each State may change the bill's basic formulas only once.

Governmental definitions and related rules.—A unit of local government, to be taken into account under this subtitle, is a general government of a political subdivision of a State. A unit must have a government (i.e., it must exist as an organized entity, have governmental characteristics and have substantial autonomy)—it is not enough that it have a political boundary.[4] So, for example, election districts and magisterial districts (even though they may be used for representation purposes or other electoral purposes) will not be considered units of local government. Nor, for that matter, will a congressional district or State legislative district be considered such a unit.

Not only must the unit have a government, but also the government must be a general government. In particular, it must not be a special-purpose unit. This definition excludes school districts, special utility districts, library districts, and agencies of local governments, even though these agencies might be relatively autonomous. On the other hand, the definition includes a general government even though it might not perform all of the functions that might be regarded as "municipal" functions or might contract to have some of those functions performed by other entities. In general, the principles used by the Bureau of the Census for general statistical purposes are to be followed to resolve questions that may arise with regard to particular units.

Title I of the United States Code defines "county" to include "parish" (as in Louisiana) and other similar units below the State. In some States, some geographic parts of the State do not fall within any counties of the State. Where this occurs, those parts of the State generally are independent cities. Any such independent city (for example, Baltimore City in Maryland and Richmond and Alexandria in Virginia) is to be treated as a county government for purposes of this bill. In Alaska, which has no units called counties, the census districts established by the Bureau of the Census may be treated as county areas. In New York State, New York City is the local government for five counties. For that area, New York City is to be treated as a county, and the government of New York City is to be treated as a county government. A number of States have counties which have merged with cities that formerly occupied a portion of the areas within those counties. In such cases, the combined county-city is to be treated as a county under this bill, and the government of the combined entity is to be treated as the county government.

Many States have a level of government between the county and the incorporated municipality. Such units generally are described in the bill as "townships". In the New England States, New York, and Wisconsin, the corresponding unit of government is generally referred to as a "town". The existence of a township is determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

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[4] See, for greater detail, Bureau of the Census, Classification Manual, Governmental Finances, February 1971, pp. 6–8.

In many places, cities cross county lines. One example of this occurs in the case of the city of Atlanta, Georgia, which is partly in De Kalb County and partly in Fulton County. In such a case, each part of the city or other unit of local government is treated as a separate unit of local government and is to participate, under the formulas of the bill, in the allocation of funds to units of local government within the county of which it is a part. If information as to the per capita income or the per capita adjusted taxes is not available for each separate county portion of such a divided city, then the Treasury Department is to treat the population in the two parts as if they had the same per capita income and taxes.

However, in applying the $200 viability test and the 50-percent limit used in determining a city's eligibility to receive its full entitlement under the bill, any city located in two or more counties is to be treated as a single unit of government. Consequently, if each part of such a city would be entitled to receive $195 in a given entitlement period, then that city would be treated as entitled to $390 for the period even though each part of the city, when considered separately, would appear not to satisfy the $200 viability requirement. (A possible example, based on the Census Bureau's Advance Report Final Population Counts for Georgia (PC (V 1)-12, December 1970) is the town of Braswell, whose 30 people are divided between Paulding County (22) and Polk County (8).)

It is recognized that census data collected by governmental units might be outdated or unusable merely because of structural changes, even though neither the residences nor the other characteristics of the individuals involved have changed. Annexations, new incorporations, relinquishment of charters, and mergers of government units, take place every year. It is understood that reasonable efforts will be made to determine the population and per capita income of new or expanded units using the 1970 census data (rather than conducting a new partial census). It is expected that this will be done whenever the annexation or other change involves a change in municipal or county population of more than 5 percent, if that change involves at least 250 people. It is expected that the localities involved will have the obligation to inform the Treasury Department and the Census Bureau whenever such an event occurs; each State, too, is expected to be required to report to the Treasury Department and the Census Bureau information on a regular basis concerning new incorporations and annexations.

The bill also authorizes the Treasury Department, in any other circumstances, to issue regulations under which this provision will apply so as to carry out the purposes of this subtitle. Such regulations, for example, would be expected to deal with the situation that is understood to exist in some places in Alaska where, for a part of the area of the State, there is no county or similar unit of local government. Also, this provision would permit classifications or definitions somewhat different from those which the Census Bureau has formulated primarily for other purposes when a modification would more nearly meet the objectives of the bill.

5. DEFINITIONS AND SPECIAL RULES FOR APPLICATION OF ALLOCATION FORMULAS (SEC. 106 OF THE BILL)

The bill provides definitions and special rules for purposes of application of the allocation formulas provided in this subtitle.

Population.—For purposes of this bill, population is to be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes. This refers to the population residing in the State or in the unit of local government on the census date. Population for these purposes does not include Americans living overseas who, for the purposes of apportioning representatives among the several States, were distributed according to their "home" States.

Income.—"Income", which is relevant for the allocation formulas, means total money income derived from all sources, as determined by the Bureau of the Census for general statistical purposes.

Dates used for data.—In general, the data to be used for allocations and entitlements under this subtitle are to be those available on April 1 immediately preceding the beginning of the entitlement period for which the data are to be used. The data are to be the most recently available data provided by the Bureau of the Census. However, the Treasury Department is given authority to vary these general rules in order to achieve more equitable allocations, to attain greater uniformity, and to reflect the most recent developments. It is important to note that the data for any unit of local government used with regard to any allocations must be comparable to the data used for the other units of local government sharing in that allocation. For example, a special census of population for a municipality may not be used in allocating funds among municipalities within a county area unless there are corresponding updated population data for all the other municipalities located in that county area. If, as the committee understands and expects, information gathered as a result of Internal Revenue Service efforts to determine residences of taxpayers and their dependents (sec. 124 of this bill, described below) enables the Bureau of the Census to make accurate estimates of population and per capita income for all the units in a county area, then such updated estimates may be used even though they are later than the last official census figures.

The operation of these provisions may be illustrated by the following example, relating to the data to be used for allocating funds between the county government on the one hand, and the units of local government located within that county on the other hand. That allocation is to be made on the basis of the adjusted taxes of those governments. The most recent information now available on that point relates to fiscal year 1967, having been gathered in the regular 5-year Census of Governments for 1967. That information is to be used as the basis for the allocations for the January–June 1972 entitlement period. The committee has been informed that the Census Bureau is prepared to conduct a special survey of all the units of local government to gather data from which their adjusted taxes for fiscal year 1971 may be determined.

This information is expected to become available by the end of October, 1972. It is intended that this information be used in the

allocation of funds between county governments and local governments (and as one of the elements in the allocation of funds among local governments) for the fiscal year 1973 entitlement preiod. If this information is not available early enough, then it may be that the first quarterly installment of the fiscal year 1973 entitlement period may have to be paid in accordance with estimates based on the 1967 data. In such a case, the subsequent installments are to be so adjusted that the total amounts paid for the fiscal year 1973 entitlement period are based upon the fiscal year 1971 data.

The committee has further been informed that data relating to fiscal year 1972, derived from the regular 1972 Census of Governments, can be made available early in 1973. That information is to be used for determining allocations for the fiscal year 1974 entitlement period. Annual limited censuses are to provide this data for later years.

The type of data used for the various sections of this subtitle, the data currently available, and the source and expected time at which later data is expected to be available is shown in Table 4 below.

TABLE 4—H.R. 14370, DATA USED AND SOURCE OF DATA

Type of data	Bill section and use of data	Basic source of data
1. Resident population, money income.	Sec. 104(a) and sec. 105(a) and (b) allocation among States, county areas, and local governments.	Bureau of the Census Decennial Census
2. Determination of eligible local governments.	Sec. 105 allocation to local governments.	Bureau of the Census, Decennial Census and Census of Governments.
3. Adjusted taxes (all taxes minus those for education), intergovernmental transfers.	Sec. 104(a) and sec. 105(a) and (b) division among county government, all cities, and all townships and allocation among county areas and among local governments, sec. 105(b)(4)(C) limitation.	Bureau of the Census, Census of Governments (complete coverage every 5 years).
4. State and local government tax collections, by State, fiscal year basis.	Sec. 104(a)(1) allocation among State areas.	Bureau of the Census, Governmental Finances, annual.
5. Personal income, by State	Sec. 104(a)(1) allocation among State areas.	Department of Commerce, Survey of Current Business.

Type of data	Data currently available	Date and source of later data
1. Resident population, money income	1970 population and urbanized population and 1969 money income (for places over 2,500; under 2,500 not published but available from the 1970 census).	Anticipated Census estimates of population and income based on income tax return data for local units and welfare recipients; data provided by HEW if feasible and at reasonable cost. Estimates if feasible, probably every 2 or 3 years.
2. Determination of eligible local governments.	1967 Census of Governments and 1970 decennial census.	Bureau of the Census, annual investigations, and local reports of incorporations, annexations, etc.
3. Adjusted taxes (all taxes minus those for education), intergovernmental transfers.	Fiscal year 1967 taxes and taxes for education. Fiscal year 1967 intergovernmental transfers on Census tape.	Limited census of all local governments for fiscal year 1971 taxes and education taxes and intergovernmental transfers in process. Results expected in October 1972. To be done annually.
4. State and local government tax collections, by State, fiscal year basis.	Fiscal year 1970	In September of each year the data for the prior fiscal year are to be available.
5. Personal income, by State	Fiscal year 1970	Data are generally available with about a 3-month lag.

General tax effort of a State.—The general tax effort factor of a State is relevant for purposes of the allocation formula dividing the amounts available under the bill between the States. This basic allocation formula is population times general tax effort times relative income (the ratio of U.S. per capita income to the per capita income of that State). The general tax effort of a State for an entitlement

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period is determined by dividing the net amount collected from the State and local taxes in that State by its aggregate personal income, using the most recent data available.

State and local taxes.—"State and local taxes" is relevant in determining the general tax effort of a State for purposes of the basic allocation formula provided under the bill (population times general tax effort times relative income). The State and local taxes taken into account for this purpose are defined in the bill as the compulsory contributions exacted by the State or any of its political subdivisions for public purposes as such contributions are determined for general statistical purposes by the Bureau of the Census. For this purpose, taxes do not include employee and employer assessments and contributions to finance retirement and social insurance systems, which are classified by the Bureau of the Census as insurance trust revenue, and special assessments for capital outlay which are classified as miscellaneous general revenue.

Generally, taxes include property taxes conditioned on ownership of property and measured by its value; sales and gross receipts taxes including taxes (and licenses levied at more than nominal rates) based upon the volume or value of transfer of goods or services, upon gross receipts therefrom, or upon gross income, and related taxes based upon use, storage, production, importation or consumption of goods; license taxes exacted either for revenue raising or for regulation, for business or nonbusiness privilege, at a flat rate or measured by such bases as capital stock or surplus, the number of business units, or capacity; income taxes; individual and corporation net income and payroll and earnings taxes imposed by city governments; death and gift taxes imposed on the transfer of property at death, in contemplation of death, or as a gift; documentary and stock transfer taxes; poll taxes; severance taxes; and miscellaneous taxes. Taxes include compulsory contributions exacted by local governments on consumers of utility commodities and services, but do not include charges and fees for utility commodities and services. The Census Bureau generally determines the classification of a levy as a charge or fee, or tax, on a case-by-case basis.

The State and local taxes taken into account are those for the most recent fiscal year available from the Bureau of the Census before the close of the entitlement period. The State and local tax data are those regularly published by the Bureau of the Census in *Governmental Finances.*

Personal income.—For purposes of the bill, personal income is the income of individuals determined by the Department of Commerce for national income accounts purposes. Generally, personal income is the current income received by persons from all sources, inclusive of transfers from government and business, but exclusive of transfers among persons. Personal income is measured on a before-tax basis, and is the sum of wage and salary disbursements, other labor income, proprietors' income, rental income of persons, dividends, personal interest income, and transfer payments, less personal contributions for social insurance.

General tax effort factor of a local government.—Under the bill, the general tax effort factor of a county area or local government for an entitlement period must be determined for purposes of the basic alloca-

tion formula and for the optional formula based on population weighted by general tax effort. The general tax effort factor is determined by dividing the adjusted taxes of the government (plus, in the case of the county area, the adjusted taxes of all the local governments within the county) by the aggregate income attributable to that government for the most recent reporting year. For example, in determining the entitlements for the fiscal year 1973, it is expected that fiscal year 1971 data probably will be used.

Adjusted taxes.—"Adjusted taxes" are required for determining the division of funds between a county government and all the other units of general government in a county under the basic formula in the bill and under one of the factors that may be used in the optional formula. It is also relevant in the case of the basic formula in the bill which uses population times general tax effort times relative income and the optional formula which uses population weighted by general tax effort. The taxes of a local government are defined in the bill in the same manner as the local taxes taken into account for purposes of determining the general tax effort of a State (described above). However, two adjustments apply for purposes of determining the adjusted taxes of a local government which are not necessary for purposes of determining the amount of State and local taxes in calculating the general tax effort of a State. In general, the taxes of a government are those which are exacted by that government. However, the bill provides that in calculating adjusted taxes there is to be excluded that portion of the taxes properly allocable to expenses for education. Also, where a county government exacts sales taxes within a municipality and transfers part or all of those taxes to the municipality without specifying the purposes for which the municipality may spend the revenues and the governor of the State in which the county is located notifies the Secretary of the Treasury that this is the case, the taxes so transferred are to be treated as the taxes of the municipality and not as the taxes of the county government. Apart from this specific county-municipal rule, intergovernmental transfers are not taxes of the unit of government receiving the transfer.

Intergovernmental transfers.—The concept of intergovernmental transfers is used in connection with the 50-percent limit (provided in sec. 105(b)(4)(C)). An intergovernmental transfer is an amount received from another government as a share in financing or as reimbursement for the performance of governmental functions. However, it does not include a payment for what may normally be regarded as the furnishing of a utility or a payment for a service or for articles which are normally sold by persons in nongovernmental capacities. For example, if the State purchases liquor from a county package store the payment by the State for the liquor would not constitute an intergovernmental transfer. Only those items characterized as intergovernmental transfers by the Bureau of the Census for general statistical purposes are to be so treated for purposes of this subtitle.

Relative income factor.—The relative income factor is applicable under the bill to the basic formula (population times general tax effort times relative income) and the optional formula based on population inversely weighted for per capita income. This factor is a fraction which in the case of a State is the per capita income of the United States over per capita income of that State, in the case of a county

area is the per capita income of the State over the per capita income of the county area, and in the case of a local government is the per capita income of the county area over the per capita income of the local government.

Definitions omitted by committee.—The committee amendment removes from the House bill the definitions of "State individual income taxes," and "Federal individual income tax liabilities attributable to a State," since those terms are not used in the committee amendment.

6. SUBMISSION OF REPORTS TO SECRETARY AND THEIR PUBLICATION (SEC. 107 OF THE BILL)

The bill provides that each State and local government is to submit an annual report for each entitlement period to the Treasury Department. Each report is to set forth the purposes for which the amounts received during an entitlement period have been spent or obligated and the amount spent or obligated for each purpose. The Treasury Department may prescribe the form and detail of these reports and the times at which they are to be submitted. It is intended that these reports will set forth the amounts and sources of non-revenue-sharing funds used for matching Federal grants [5] and the amounts of Federal grants thus obtained. In part the purpose of these reports is to indicate to Congress whether the discretion left with the States and localities as to the purpose for which the revenue sharing funds are to be spent has led to misuse of the funds. The committee is also concerned that the funds not be used directly or indirectly as State or local matching funds for Federal matching programs. The reports are also intended to serve as a way of being sure that the revenue sharing funds are not used for this purpose.

Each State and local government that expects to receive funds for any entitlement period beginning after June 30, 1972, also is to submit plans to the Treasury Department, setting forth the amounts and purposes for which that government plans to spend the funds which it expects to receive during the next entitlement period. The Treasury Department may prescribe the form and detail of these reports and these reports must be submitted before the beginning of the entitlement period. However, in the case of the entitlement period beginning July 1, 1972, the report is to be submitted at any time prescribed by the Treasury Department which is before January 1, 1973.

The bill further provides that each State and local government is to publish a copy of the reports described in the preceding paragraphs in a newspaper which is published within the State and has general circulation within the geographic area of that government. The government must also advise the news media of the publication of its reports in the newspaper.

This provision, which was not in the House bill, has been added by the committee in order to facilitate the public scrutiny—by the citizenry as well as by the Congress and the Treasury Department—of the uses to which revenue sharing funds are to be put and the extent to which the planned uses are carried out.

[5] Under the bill, revenue sharing funds are not to be used to match Federal grants.

7. NONDISCRIMINATION PROVISION (SEC. 108 OF THE BILL)

The House bill provides that no person is to be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, sex, or national origin. However, the nondiscrimination provisions of the House bill apply only to local governments. The committee agrees with the objectives of the House bill but has extended these provisions to include State governments as well as local governments (as was provided for in the administration's proposals).

When the Secretary determines that a State or local government has failed to comply with this section, he is to notify the governor of the State (or the governor of the State in which the local government is located) that the State or local government is in violation of this section and request the governor to secure compliance. If the governor is unable or refuses to secure compliance, the Secretary may (1) refer the matter to the Attorney General with a recommendation that appropriate action be instituted, (2) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d), or (3) take such other action as may be provided by law.

When a violation is referred to the Attorney General, or whenever he has reason to believe that a State or local government is engaged in a pattern or practice in violation of provisions of this section, he may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

8. PROHIBITION ON USE AS MATCHING FUNDS (SEC. 109 OF THE BILL)

The House bill provides that revenue sharing payments received by local governments under the bill are not to be used to match Federal funds for other programs where those funds are required, under a formula provided by Federal law, to be matched by non-Federal funds. The committee agrees with the objectives of the House bill but has extended these provisions to apply to revenue sharing payments to State governments, and also to cases where the formula provided by Federal law allows matching from either Federal or non-Federal funds.

The committee's amendment provides that States and local governments are not to use revenue sharing payments, either directly or indirectly, to obtain Federal matching grant funds. (However, this provision of the bill is not to prevent the use of revenue sharing funds to *supplement* other Federal grant funds. For example, if a project costs more than the amount available from non-Federal funds plus matched Federal funds, the State or local government could use funds coming to it under this title to defray the excess cost, if the funds under this title are not being used to match other Federal funds.)

If the Secretary of the Treasury has reason to believe that a State or local government has used revenue sharing funds to match Federal funds, he is to give that government reasonable notice and opportunity for hearing. If he then determines that the funds have been used for such matching, he is to notify the State or local government of this determination and request repayment to the United States of an

amount equal to the funds so used. If the State or local government fails to repay, the Treasury Department is to withhold from subsequent revenue sharing payments to that government an amount equal to the funds used for such matching.

In determining whether the governmental unit has indirectly used revenue sharing funds to match Federal funds, it is expected that the Treasury will generally hold that revenue sharing funds are used for matching purposes unless it can be shown that the matching funds came from other sources. Other sources from which the funds for matching purposes could come would include proceeds from one or more bond issues that exceeded bond issue proceeds in the fiscal year 1972. Similarly, revenue sharing funds would not be considered as used for matching funds if the governmental unit could show that the funds used for matching were made available by discontinuing a fiscal year 1972 expenditure program, but only if its revenue sharing funds were not being used for an essentially similar program in order to avoid the intent of the anti-matching rule.

Another possible source of funds used for matching purposes other than revenue sharing funds is, of course, additional revenues over and above those raised by the governmental unit for the fiscal year 1972. The bill provides that a State or local government is not to be held to have used funds received under the bill for Federal matching purposes to the extent that its net revenues from its own sources for the entitlement period exceed its net revenues from its own sources for the fiscal year 1972 (or one-half of its net fiscal year 1972 revenues in the case of any entitlement period of six months).

If the State or local government's revenues have increased by a lesser amount than its increased use of funds to match Federal grants, then only the excess of the matching funds over that government's increase in revenues is to be treated as improperly used revenue sharing payments and only that excess need be repaid. (Of course, that government will not be required to repay more than the amount of its revenue sharing payments even if the "excess" referred to in the last sentence is greater than the revenue sharing payments.)

While funds received by a local government from a State government generally can be used for matching Federal grants, it must be clear that the funds derived from the State are not in themselves revenue sharing funds. In such a case, the local government would be required to show that the funds it received from the State had not been originally received by the State as revenue sharing funds under this bill. In other words, the prohibition on the use of revenue sharing funds for Federal matching is a prohibition on such use directly or indirectly.

As described below, judicial review is provided in case of any dispute between the Secretary of the Treasury and the State or local government as to whether these provisions have been violated for and as to the amount of any required repayment or withholding from future revenue sharing payments.

Any amount repaid under these provisions is to be deposited in the general fund of the Treasury; the amount of any reductions in future revenue sharing payments to a State or local government under these provisions (after judicial review or the expiration of time to petition

for such review) is to be transferred from the trust fund to the general fund of the Treasury on the day the reduction becomes final.

9. MISCELLANEOUS PROVISIONS (SEC. 110 OF THE BILL)

This section of the bill corresponds to the provision in the House bill which provides the mechanism whereby the Treasury Department can be assured that funds are spent in accordance with the requirements of this subtitle. It also provides for reviews by the Comptroller General so that the Congress will be able properly to evaluate the effect of this subtitle. The committee agrees with the objectives of the House bill but has extended these provisions to cover States as well as local governments.

In order to qualify for payments under this subtitle a State or local government must, for each entitlement period beginning on or after July 1, 1973, establish in advance a number of matters to the satisfaction of the Secretary of the Treasury.

Trust fund.—The State or local government must create a trust fund in which it will deposit all the payments it receives under this subtitle. The State or local government's trust fund is intended to facilitate proper auditing of the Federal moneys received and to provide a mechanism for Congressional review and evaluation of the program provided by this subtitle during the five-year period of the bill. The State or local government must establish that it will use the amounts that are in its trust fund (including any interest earned on these amounts) within whatever reasonable time periods are specified in Treasury regulations. Where a government seeks to accumulate its revenue sharing funds for one or more capital projects, those regulations are to permit a reasonable time for obligation of the funds, generally within 18 months after their receipt by the State or local government. It is expected that those regulations will require the State or local government to periodically update the information it submits as to its intended uses for the funds.

Regular budgetary procedures.—Under the committee bill, a State or local government must provide for the expenditure of revenue sharing amounts only in accordance with the laws and procedures applicable to the expenditure of its own revenues. In other words, it must follow the same budgetary laws and procedures or ordinances with respect to making revenue sharing funds available for expenditures as it does in providing for the expenditure of its own revenues. This is intended to assure that the expenditures of the revenue sharing funds are provided for not only by the executive but also by the legislative branch of the governmental unit as well.

Audit procedures.—The State or local government also is required under these provisions to use such fiscal, accounting, and audit procedures as conform to guidelines established for this purpose by the Secretary of the Treasury (after consultation with the Comptroller General). The State or local government must provide reasonable access to books, papers, etc., as may be required for reviewing compliance and must make those materials available, on reasonable notice, both to the Secretary of the Treasury and to the Comptroller General. The State or local government also is required to make such annual and interim reports to the Secretary of the Treasury as he may reason-

ably require (other than those reports setting forth the amounts and purposes for which the funds have been spent and which are required under section 107 of the bill).

Prevailing wage rates.—The local government (but not the State government) must also agree that persons employed in jobs financed in whole or in part out of its trust fund are to be paid wages not lower than the prevailing rates of pay for persons employed in similar jobs by that local government.

Rules for 1973.—For the fiscal year 1973 entitlement period, in lieu of the above requirements, a State or local government would merely be required to establish to the satisfaction of the Treasury Department that it will comply as soon as possible with the requirements discussed in the preceding paragraphs.

House Davis-Bacon requirements.—In addition to the above, the House bill would have required the local government to provide that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction, financed in whole or in part out of the local government's trust fund, would 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. The committee concluded that this was inconsistent with the general "no strings" approach of the bill and removed this provision.

Procedural and administrative requirements.—When a local government provides its proposed assurances to the Secretary of the Treasury, the Governor of the State in which that local government is located is to have a reasonable opportunity for review and comment before the Secretary accepts those assurances and pays out funds from the Trust Fund on the basis of those assurances.

If the Secretary determines that a State or local government has failed to comply substantially with any of the requirements discussed in the preceding paragraphs or any regulations prescribed thereunder, after giving reasonable notice and opportunity for a hearing to the governor of the State or the chief executive officer of the local government, he is to notify the State or local government that if it fails to take corrective action within 60 days from the date of receipt of the notification further payments to such State or local government are to be withheld for the remainder of the entitlement period and for any subsequent entitlement period until the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary is to make no further payments.

The Secretary is to provide for accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds by the State or local governments comply fully with the requirements of this subtitle. The Secretary is to have authority to accept an audit by a State of the expenditures of a State government or a unit of local government under this subtitle if he determines that such audit and the audit procedures of that State are sufficiently reliable to enable him to carry out his duties under this subtitle.

The Treasury Department has indicated to the committee an intention to rely on State audits to a significant extent. The committee intends to encourage such reliance upon the actions of State officials, to

the extent consistent with the purposes of this bill. However, if the Treasury Department wishes, it may also make use of private audits.

The Comptroller General is to make such reviews of the work as done by the Treasury, the States, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this subtitle.

10. AUTHORIZATION OF APPROPRIATIONS FOR SUPPLEMENTARY SHARING GRANTS (SEC. 121 OF THE BILL)

The bill also authorizes appropriations, at a rate of $1 billion a year, in place of funds now distributed for various social service programs. These supplementary sharing grants are to begin on January 1, 1973, and to continue for the remainder of the regular revenue sharing program described in the preceding sections of this part of the committee report. The authorization is for $500 million for the period January–June 1973, $1 billion for each of the fiscal year entitlement periods 1974, 1975, and 1976, and $500 million for the last 6-month entitlement period (July–December 1976). These grants are to be made by the Secretary of the Treasury.

To insure that funds will be promptly available for the first 6-month period, the bill also provides that any appropriated federal funds available after December 31, 1972, for the purpose of making payments to States for services under title I, X, XIV, or XVI, or part A of title IV of the Social Security Act which are not utilized for these purposes are to be available for the purpose of making these supplementary grants for the entitlement period beginning January 1, 1973.

11. APPORTIONMENTS OF SUPPLEMENTARY SHARING GRANTS AMONG STATE AND LOCAL GOVERNMENTS (SEC. 122 OF THE BILL)

For the reasons indicated above, the supplementary grants (at the rate of $1 billion a year) are to be allocated among the States in proportion to their urbanized populations. Of the amount allocated to a State and its local governments, under the urbanization formula, one-third is to be paid to the State government and the remaining two-thirds are to be paid to the units of local government in the State. The two-thirds for the local governments are to be distributed among them in the same proportion as the general revenue sharing funds are distributed among those local governments. That is, the supplementary sharing grants are to be distributed in the same proportions as the amount allocated to each local government under the general revenue sharing provisions described above (after the application of the relevant constraints and limitations for the revenue sharing funds). For example, if the supplementary sharing grant represents one-third of the general revenue sharing grant to the local governments in a State, then the amount of the supplementary grant for each unit of local government is to be one-third of the revenue sharing grant.

Generally, the Secretary of the Treasury is to make the same determinations in the administering of the supplementary grants as in the administration of the revenue sharing provisions. In addition, the supplementary grants are to be paid to the extent feasible at the same time and in the same manner as the revenue sharing grants.

12. DEFINITION OF URBANIZED POPULATION (SEC. 123 OF THE BILL)

The definition of urbanized population is used in this subtitle to determine the distribution of the supplementary grants among the States. In no event is less than 30 percent of a State's population to be considered urbanized. "Urbanized population" means the population of any area consisting of a central city or cities of 50,000 or more inhabitants (and of the surrounding closely settled territory) which is treated as an urbanized area by the Bureau of Census for general statistical purposes. There are a few urbanized areas which are based on twin central cities in which no one city has a population of more than 50,000. The Census Bureau regularly publishes statistics which indicate for each county or similar place that portion of the population that is considered to reside in urbanized areas. Approximately 58 percent of the population of the nation in 1970 is regarded under this definition as urbanized population.

13. DEFINITIONS AND SPECIAL RULES (SEC. 141 OF THE BILL)

The bill provides special definitions of the terms "Secretary" and "entitlement period". Whenever reference is made to the term "Secretary" when dealing with provisions relating to the payments to local governments and to the States, this term means the Secretary of the Treasury or his delegate. However, when the term "Secretary of the Treasury" is used, that term refers to the Secretary of the Treasury personally and does not include any delegate.

The term "entitlement period" means the period January 1, 1972, through June 30, 1972, the fiscal years 1973, 1974, 1975, and 1976, and the period July 1, 1976, through December 31, 1976.

Special rules also are provided for the District of Columbia. For purposes of payments of State revenue sharing funds, the District of Columbia is to be treated as a State.[6] Where distributions are made to local governments, the District of Columbia is to be treated as a State in determining the allocation among the States, and also as a county having no units of local government (other than the District of Columbia government) within its boundaries.

14. D.C. COMMUTERS

Under the House bill (sec. 141 (c) (3)), the entitlements of the District of Columbia were to be reduced by an amount equal to the net collections of any tax imposed by the District of Columbia on the income of nonresidents. Commuter taxes of other jurisdictions were neither encouraged nor inhibited by the bill.[7] Many States and a number of local governments now tax the income of nonresidents, to the extent their income is earned within the taxing jurisdiction. Taxes paid by nonresidents are included in the computations of the entitle-

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[6] Also, for purposes of payments of State revenue sharing funds and payments to local governments the Commissioner of the District of Columbia is to be treated as the governor of a State.

[7] Title II of the bill (the so-called "piggyback" provisions) provide rules as to nonresident taxes that are intended to make them more uniform but are essentially neutral as to the desirability of these taxes. In any event, those rules apply only to States that voluntarily enter into and remain in the piggyback system.

ments of State and local governments in calculating the tax effort factor (secs. 104 and 105).

To the extent that taxes are relevant in determining the allocations between the government of a county and the local governments within the county, taxes paid by nonresidents are treated the same as taxes paid by residents; this is also true as to the computation of the tax effort factor. Consequently, the committee concluded that the District of Columbia, alone of all jurisdictions in the Nation, would by the House bill be effectively prohibited from taxing the income earned in the District by nonresidents. The committee deleted this provision because it felt that it was inequitable to impose such a limitation on the District alone.

15. REGULATIONS (SEC. 142 OF THE BILL)

The bill provides that the Treasury Department is to prescribe those regulations which are necessary or appropriate to carry out the provisions of the bill relating to the distributions to local governments and to States. Those regulations which apply to entitlement periods beginning with fiscal year 1973 are subject to the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 551 through 559).

16. JUDICIAL REVIEW (SEC. 143 OF THE BILL)

The bill provides that if a State or local government receives a 60-day notice that the Secretary of the Treasury intends to withhold payments from it, it may file a petition for review of this action with the United States court of appeals for the circuit in which the State or local goverment is located within 60 days after receiving the notice. Both the Secretary of the Treasury and Attorney General also are to be furnished with a copy of the petition for review.

Once a petition has been filed with the court of appeals, the Secretary of the Treasury is to file with the court a record of the proceedings on which he based his action, but in no case is objection to this action to be considered by the court unless the objection was raised before the Secretary. The court is then to review the action of the Secretary and may affirm, modify, or set aside (in whole or in part) his action. This judicial proceeding is to be based upon the record—it is not to be a trial *de novo.* The court may order part or all of the amount in controversy to be paid over to the State or local government. Any amount in question which the court does not require to be paid over to the State or local government is to be transferred to the general fund of the Treasury. The bill provides that if the findings of fact made by the Secretary are supported by substantial evidence contained in the record submitted by him to the court, the findings of fact are to be conclusive. However, if the findings of fact are not supported by substantial evidence, the court is given the authority to remand the case to the Secretary for further proceedings to obtain substantial evidence. If this is done, the Secretary may then make new or modified findings of fact and on this basis modify his previous actions. If further proceedings are held, he must certify to the court a record of these further proceedings. Any new or modified findings of fact made by the Secretary, if supported by substantial

evidence contained in the record of these further proceedings, are also to be conclusive. The judgment of the court of appeals in any case involving such a review is subject to review by the Supreme Court either upon certiorari or certificaton.

17. AUTHORITY TO REQUIRE INFORMATION ON INCOME TAX RETURNS (SEC. 144 OF THE BILL AND NEW SECS. 6017A AND 6687 OF THE CODE)

As explained above, the bill requires that certain data with respect to the political subdivision of the residence of individuals and their income be compiled so current information on income and population will be available in helping to determine the appropriate distributions to local governments. These figures are generally obtained from the decennial census, but are difficult to obtain with respect to most local governments between these censuses. It is believed that information taken from income tax returns, in addition to information obtained from other sources, will make it possible for the Bureau of the Census to make workable estimates of population and per capita income levels for local governments at intervals between the decennial censuses.

The bill therefore amends the Internal Revenue Code by adding a new section requiring individuals to provide information on their tax returns as to their places of residence. Under this provision, individuals must include information as to their State, county, township, municipality, and any other unit of local government in which they resided on those dates during the taxable year prescribed by the Secretary of the Treasury or his delegate in regulations. This provision also authorizes the Secretary or his delegate to require the taxpayer to show the places of residence of all persons with respect to whom the taxpayer claims personal exemptions on his return. For this purpose, a full-time student claimed as a dependent is to be considered as residing at the residence of the taxpayer, even though on the relevant date the student resided at his college or university. This does not, of course, require the Bureau of the Census to change its rules for reporting population.

The bill provides that the taxpayer is penalized $5 for failure to include on his return information with respect to the place of his residence. This is the same penalty which presently applies in the case of a failure to include a social security number. This penalty does not apply if the taxpayer can show that his failure to include this information on his return was due to reasonable cause. The Secretary of the Treasury or his delegate need not send a notice of deficiency to the taxpayer to collect this penalty, nor does the Tax Court have jurisdiction to review it. Since this is to be an assessable penalty, it will not be deductible (see sec. 162(f) of the Internal Revenue Code).

IV. GENERAL EXPLANATION OF FEDERAL COLLECTION OF STATE INDIVIDUAL INCOME TAXES

The concept of Federal collection of State individual income taxes has been advocated over a period of years and numerous bills have been introduced in the past four Congresses to authorize the Treasury

Department to enter into agreements with States to collect State individual income taxes and pay the amounts collected over to the States. It is felt that a Federal collection system of State individual income taxes [8] (often referred to as a "piggyback" system) will add to the overall efficiency of administration and provide the States with additional revenue for a number of reasons which may collectively be described as relating to efficiency of administration. Such reasons include eliminating the duplication of effort by State and Federal tax administrators, eliminating unnecessary recordkeeping by taxpayers, establishing uniform treatment for individual taxpayers at both the State and Federal levels, providing for faster collection of withheld income taxes, and freeing the State courts from individual income tax controversies. In providing a mechanism for the Federal collection of State individual income taxes, the committee attempted to balance the sometimes competing interests of the Federal Government in achieving the greatest degree of uniformity for administrative efficiency with the interests of the States in preserving as much flexibility as possible to determine their own substantive tax laws.

It should be emphasized that this system is entirely voluntary for the States. The Federal Government will not collect a State's individual income taxes unless the State has chosen, in accordance with its constitutional procedures, to enact an income tax law that meets the provisions of the bill; and even then, not until after the State has notified the Secretary of the Treasury that it wishes the Federal Government to collect and administer the State's individual income taxes. In effect, then, this title of the bill merely offers a simplified and less expensive method for carrying out a policy determined by a State, e.g., a determination by the State to have an income tax and to conform that tax substantially to the Federal income tax. Nothing in the bill requires a State to have an income tax against its will; nothing in the bill requires a State to follow the Federal income tax against its will if the State prefers a different income tax system.

The committee has substantially approved the House bill's piggyback provisions. The major changes from the House bill are: (1) the committee provided additional options for a State as to income tax treatment of interest on the State's own obligations and those of its subdivisions; (2) the committee removed the option of a State to allow a credit against income tax on account of sales tax; (3) the committee postponed from August 31 to October 31 the last date by which a State may change its tax laws retroactive to the start of a then current taxable year; and (4) the committee modified the effective date of the piggyback title of the bill (by removing the 5-State requirement) to simplify the initiation of the system.

1. COLLECTION AND ADMINISTRATION (SEC. 202 OF THE BILL AND NEW SEC. 6361 OF THE CODE)

For the reasons discussed above, both the House bill and the committee version provide that the Federal Government is to collect and administer a State's "qualified" individual income taxes where the State has entered into an agreement with the Secretary of the Treasury.

[8] The bill provides for Federal collection of State income taxes on individuals, estates, and trusts, but not State income taxes on corporations.

To make it possible to handle the administration of this tax in connection with the administration of the Federal income tax it is necessary to provide a unified system of statutory and administrative rules, requirements, standards, and procedures which must apply for State individual income taxes to be collected with Federal individual income taxes. This is generally accomplished under the bill by providing that the procedural and administrative provisions of the Internal Revenue Code generally are to apply to Federal collection of qualified State individual income taxes in the same manner as if such taxes were imposed by the Federal Government. Such a system should also substantially simplify the efforts of taxpayers who now must complete and file many different tax forms as well as maintain several sets of records because of the differences in information presently required by the State and Federal income tax systems. For example, a number of State laws differ substantially from the Federal tax in their methods of handling installment sales and determining the cost or other basis of property when it is sold, with the result that often (although the tax consequence may be small) varying computations must be made between Federal and State income tax returns and also among State income tax returns where more than one must be filed.

It is contemplated that most taxpayers in States in the piggyback system will fill out only one form 1040 for both Federal and State individual income taxes, although a separate schedule will be required for the State computation. It is intended that in the interest of simplicity for taxpayers, the Internal Revenue Service will provide a separate schedule for each State in the system. In this way, the piggyback provisions should make a substantial contribution to tax simplification for taxpayers.

Under the bill, the Secretary or his delegate has the authority to prescribe the rates for withholding of State individual income taxes so that he may integrate them with the rates for withholding of Federal individual income taxes. Since the provisions for withholding of Federal and State taxes are to be combined, an employer would be required to keep only one set of records and make only one deposit of Federal and State withheld taxes, simply specifying the portion of the deposit which is being withheld for Federal individual income taxes and the portion which is being withheld for each particular State's individual income taxes.

To deal with unanticipated difficulties which may arise in the administration of any newly designed system, the bill provides that the Secretary or his delegate may by regulations make modifications which are necessary and appropriate to reflect differences between the Federal and State taxes or differences in the situations in which liability for such taxes arise. For example, in situations where interdependent calculation problems exist the Secretary may wish to require that, if a State which imposes its individual income tax as a percentage of the Federal tax enters this collection system, then an accrual basis taxpayer in that State is to deduct State income taxes actually paid for the year as if such taxpayer were on the cash basis method of accounting.

Protection of State interest.—Generally, the Federal Government is to deal with taxpayers and appear in court on behalf of any State whose income tax is to be collected under these provisions, and to repre-

sent the State's interests in all administrative and judicial proceedings (civil and criminal) relating to the administration and collection of the State's individual income tax, in the same manner as it represents the interests of the United States in Federal income tax matters. However, the committee recognizes that the principles of federalism require that a State represent its own interests with respect to proceedings in a State court involving the constitution of that State and with respect to proceedings involving the relationship between the United States and the State. As a result, under the bill, the State, and not the Federal Government, will represent the interests of the State in these two matters.

To simplify the handling of the State returns by the Federal Government, the bill provides that the administrative determinations made by the Secretary or his delegate with respect to piggyback State tax liabilities, or refunds, of taxpayers are not to be subject to review by any officer or employee of the State or its local governments. However, the tax returns and other information would be made available to States for any supplemental audits they may care to make, but only the Federal Government is to proceed against the taxpayer on account of his income tax liabilities.

To make Federal representation of the State's interests in judicial proceedings feasible, the committee has provided that the judicial procedures under the Internal Revenue Code and title 28 of the United States Code with respect to civil proceedings are to replace the judicial procedures provided under State law. Thus, the bill provides that the taxpayer has the right to bring a civil action and obtain review with respect to the State's qualified individual income tax in the same courts and subject to the same requirements and procedures as he now has with respect to Federal individual income taxes. When the Internal Revenue Service or the Justice Department proceeds against the taxpayer with regard to his piggyback tax, whether the proceeding is civil or criminal, the Federal Government is to proceed in the same court or courts that would be available to it if the tax involved were the Federal income tax. This provision, however, is not intended to affect the right or power of a State court to pass on matters limited to the constitution of that State. In such a case, if the State court holds that the statute is constitutional, the State court is not to proceed to decide the amount of the tax liability, unless the court would otherwise have jurisdiction, as might occur where the suit involves title to property clouded by tax liens.

Transfers to States.—Amounts collected by the Federal Government on account of qualified State individual income taxes are to be promptly transferred to the States. To facilitate prompt transfers, the amount transferred is initially to be based on the Secretary's estimates.

In the case of State taxes withheld, the bill provides that the estimated amount of withheld State taxes is to be transferred to the State within 3 business days after the withheld taxes are deposited in a Federal Reserve bank. In the case of amounts collected pursuant to a return, a declaration of estimated tax, or otherwise, these estimated amounts are to be transferred to the State within 30 days after they are received by the Internal Revenue Service. The amounts to be transferred to the State under this provision include criminal

penalties which are imposed for violation of a State's qualified income tax even though these penalties are not treated as tax collections. The penalty amounts, however, are to be treated as subject to the 30-day payover rule, not the 3-day payover rule. The committee expects and intends that transfers will be made more quickly than the bill requires to the extent that Internal Revenue Service operations permit and that estimating procedures may be used to facilitate such faster transfers.

The States in the piggyback system can be expected to benefit significantly from the faster operating Federal withholding system. At present, the Federal individual income taxes withheld (net of refunds) by the Federal Government amount to about three-quarters of the total Federal individual income tax liability. In recent years, Federal regulations have substantially shortened the time within which an employer must deposit income taxes withheld from employees. Such deposits now must be made within 3 banking days after the end of each quarter of the month in the case of undeposited taxes amounting to $2,000 or more, including social security taxes as well as withheld income taxes. (Regulations § 31.6302(c)-1(a)(1)(i)(b)). This is substantially faster than is required by any of the States. Adoption of the Federal standards, administered by the Internal Revenue Service, not only should simplify the employer's task (in that both Federal and State withholding would be paid at the same time by payment to the same depository) but also should permit the States to receive the withheld taxes sooner than at present. In the first fiscal year in which such a withholding "speedup" is instituted, the States would receive additional revenue (which otherwise would have been received later) in an amount roughly equal to the amount of the collections for one present State withholding period. (Since these are amounts that have already been withheld from employees' wages, this generally will not effect employees' take home pay.) In those few States which do not now use income tax withholding, this amount would be substantial. The aggregate amount that may be expected to be received by the States currently having individual income taxes as a result of such a withholding speedup is about $1 billion at fiscal year 1970 levels, assuming forgiveness of no part of the added fiscal year tax payments and assuming all of these States elect Federal collection.

At least once each fiscal year, the Federal Government is to make adjustments for any difference between the collections made during the preceding fiscal year (taking into account credits and refunds) and the transfers made to the States for that fiscal year because of the estimates described above. These adjustments are to be made by the Service as charges against or additions to the amounts otherwise determined to be payable to the State under these provisions. The total collections made during a fiscal year include amounts collected during a year, even though they are attributable to an individual's tax liability for a prior year.

If the combined amount collected from an individual in respect of a qualified State individual income tax (including interest, penalties, and additions to tax) for a taxable year and the Federal individual income tax for that taxable year is greater than the combined amount that individual is actually required to pay, then the amount to be re-

paid to the individual is to be paid out of the accounts of the Federal Government and the State in the proportion in which the two governments shared in the overpayment. The same approach is followed in the case of deficiencies. For example, assume that the combined amount of State and Federal income tax collected from a resident of State A for a particular taxable year is $5,100, and that the amount required to be paid to State A for that year is $800 and the amount required to be paid to the Federal Government for that year is $4,000. Since the State tax ($800) is one-sixth of the combined taxes ($4,800—$4,000 plus $800), the excess $300 is to be refunded to the taxpayer, with $50 (one-sixth of the excess $300) to be taken from the State's account and $250 to be taken from the Federal Government's account.

2. QUALIFIED STATE INDIVIDUAL INCOME TAXES (SEC. 202 OF THE BILL AND NEW SEC. 6362 OF THE CODE)

In providing for Federal collection of State individual income taxes, the committee is in accord with the House bill in trying to achieve two related objectives. First, since an important purpose of the bill is to simplify the task of taxpayers required to pay State individual income taxes, it was believed that the computation of the State taxes to be collected should be relatively simple. A second objective of the bill relates to the fact that the Federal collection of State individual income taxes should not be an undue burden on the Internal Revenue Service. This objective means that a large degree of diversity should not be permitted among the State taxes to be collected and that the State tax laws should not vary substantially from the Federal income tax law. Because of these objectives, the committee's bill imposes restrictions on the types of taxes the Federal Government is required to collect under this system. These requirements are set forth in the bill's definition of "qualified State individual income taxes."

Generally, there are two basic types of State individual income taxes which qualify for Federal collection. The first type is a tax on the income of resident individuals of the State (including estates and trusts). These taxes are subdivided by the bill into (1) taxes based on Federal taxable income and (2) taxes which are a percentage of Federal tax liability. In either case, the State tax rate is to be determined under State law. If the State's tax is based on Federal taxable income, its rates may be proportional or progressive, as the State determines. If the State's tax is based on Federal tax liability, however, its rate must be a flat percentage, which will automatically provide for the same measure of progressivity as exists in the Federal rate structure.

The second basic type of State individual income tax which the Federal Government is to collect under this system is a tax on wage and other business income derived from sources within the State by a nonresident individual.

To be qualified under the bill, a State tax must meet a number of requirements. These requirements are divided under the bill into groups: those which must be met for resident taxes based on Federal taxable income, those for resident taxes which are a percentage of Federal tax liability, and those for nonresident taxes on wage and other business income. Additionally, certain general requirements are

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provided for all qualified taxes. This portion of the report deals first with the requirements for each of the three types of qualified taxes. Following this, the additional general requirements that apply to all qualified taxes are discussed.

Qualified resident tax based on taxable income.—Generally, for a tax based on taxable income to qualify for Federal collection, the State tax must be imposed on an amount equal to an individual's taxable income for the taxable year, as such income is defined from time to time in the Internal Revenue Code of 1954 (sec. 63). However, because taxable income does not in all respects provide an appropriate base for State tax, both the House bill and the committee version require that three adjustments be made to the tax base in order for the tax to qualify for Federal collection. Under the House bill, the three adjustments that a State was required to make were to: (1) subtract from taxable income any interest received on U.S. obligations received by a taxpayer and included in Federal gross income,[9] (2) add to Federal taxable income any deductions claimed by a taxpayer for net State and local taxes, and (3) add to Federal taxable income the interest from obligations of *any* State or political subdivision which is exempt from Federal income tax. As a result, any State wishing to qualify by basing its individual income tax on Federal taxable income, was required to impose its tax on interest derived from its own State and municipal obligations.

The committee felt that where a State has issued bonds under agreements to exempt the interest from its own income tax laws, a serious question was raised as to whether a State could now tax that interest without violating the first paragraph of article I, section 10 of the Federal Constitution which provides that "no State shall . . . pass any . . . law impairing the obligation of contracts. . . ." The language of a State law exempting bonds from taxation, the effect of covenants, or other facts that support the existence of a contract might have precluded a State which bases its tax on Federal taxable income from entering into the Federal collection system under the House bill without violating the above-mentioned constitutional prohibition. Accordingly, the committee amendments modify the House bill with respect to the adjustment for interest on State and municipal obligations by allowing a State to make this required adjustment in one of three ways. Each State has the option of taxing the interest income from either (1) all tax-exempt (i.e., exempt from Federal income taxation) State and municipal obligations, (2) all tax-exempt State and municipal obligations other than those issued by that State and its subdivisions, or (3) all tax-exempt State and municipal obligations other than those issued by that State or its subdivisions prior to some date such as the date that that particular State enters into the piggybacking system. (A similar change is made in the rules regarding a State tax which is a percentage of Federal tax liability.)

In addition to the mandatory adjustments to Federal income tax discussed above, the committee concluded that a State income tax based on Federal taxable income should be permitted to qualify for

[9] While the adjustment for interest on U.S. obligations is mandatory for both a qualified tax based on Federal taxable income and a qualified tax which is a percentage of Federal tax liability, it is anticipated that the net effect of this adjustment will require no more than one line on the taxpayer's return.

Federal collection even though two other adjustments are provided under applicable State law. The committee agreed with the House that a State should be permitted to impose a "minimum tax" on tax preferences and allow a credit for income taxes paid to another State or a political subdivision of another State. Under the House bill, a third adjustment was permitted for a uniform nonrefundable per capita credit for general sales tax. The committee amendments deleted this adjustment in order to avoid placing an undue administrative burden on the Internal Revenue Service.

It is expected that a significant application of the adjustment for a credit with respect to income tax paid to another State will be in the area of commuter taxes. However, the bill does not restrict the use of the credit to such situations.

For this credit for State income taxes to be administratively manageable for the Internal Revenue Service, the bill provides broad rulemaking power to the Treasury to determine the amount of the credit to be allowed.

For example, the regulations may provide a limitation based solely on an overall limitation approach rather than making the computation optional on either an overall or per-State limit. Further, the Secretary or his delegate may determine that the computation would be more appropriate if not based in all cases on the source of income or that the computation should be determined on an allocation of adjusted gross income rather than taxable income. Finally, the committee also wishes to make clear that rules may limit the types of taxes for which credits will be allowed under the piggybacking system.

Assuming that rules provided by the Secretary or his delegate contain a credit limitation based on an allocation of adjusted gross income, a credit provided against a qualified resident income tax with respect to an income tax paid to another State might be limited so as not to exceed the same proportion of the tax against which the credit is taken which the taxpayer's adjusted gross income (as adjusted by the provisions of this bill and applicable State law) subject to tax outside the State of residence bears to his entire adjusted gross income subject to tax by the State of residence for the same taxable year.

The operation of such a provision may be illustrated by the following example. T is a resident individual for the entire taxable year of State A, a participating State which provides a credit for income taxes paid by its residents to State B. T's total adjusted gross income, as adjusted for interest on United States obligations and net tax-exempt income is $20,000. Under the rate schedule provided by the laws of State A, T's State tax liability with respect to this income is $1,000. During the same taxable year, T has adjusted gross income of $4,000 which is subject to tax by State B. Since the State B adjusted gross income [10] is 20 percent of T's total adjusted gross income, State A will allow a credit for up to 20 percent of T's basic tax liability. In this case, State A would provide T with a full credit for income taxes paid by T to State B up to $200. Any amount paid by T to State B which exceeds $200, however, would not be a credit against T's tax liability to State A.

[10] As further adjusted by inclusion of tax-exempt State and local bond interest and by the exclusion of U.S. bond interest.

The committee recognized that States presently make certain benefits or incentives (other than those permitted under the committee's bill) available to their residents through the operation of the State individual income tax. The limitation on the number of permitted adjustments, however, is not intended to prevent a State which is using the Federal collection system from continuing to make certain benefits or incentives available by other means. For example, nothing in the bill prevents a State—independently of its qualified income tax—from making a direct payment to an individual with respect to State tax paid by him on interest derived from the obligations of such State. Other examples which may be cited relate to the general sales tax credit and the income tax credit for property taxes paid by the elderly which some States presently provide. Although a State income tax would not be qualified under the bill if it provides such credits, the committee does not intend to preclude a participating State from making direct payments or refunds for these taxes. However, the Internal Revenue Service would not participate in the administration of those payments or refunds, other than to make the individual returns, or information from them, available to the State.

Qualified resident tax which is a percentage of the Federal tax.—Instead of providing a resident tax which is based on Federal taxable income, some States may wish to calculate their tax as a percent of the Federal tax. Although this alternative limits the extent to which a State may establish its rate structure, such a tax may be substantially simpler to apply. A qualified resident tax computed as a percentage of Federal tax is defined as one imposed on the excess of the taxes imposed by chapter 1 of the Internal Revenue Code over the sum of the nonrefundable credits allowable against these taxes. This includes in the base the Federal liability for the minimum tax. As with the tax based on Federal taxable income, certain adjustments are provided by the bill for the tax based on a percentage of the Federal tax. One such adjustment is mandatory and three other adjustments may be provided for by the State. However, two of the permitted adjustments either must both be made or neither may be made. The remaining permitted adjustment is fully optional on the part of the State.

As with the qualified resident tax based on taxable income, for a tax computed as a percentage of Federal tax liability to be qualified, an adjustment must be made to eliminate State income tax on interest derived from United States obligations. This adjustment must be made by reducing the liability for State tax by an amount equal to the decrease in the tax liability which would result from excluding from gross income an amount equal to the interest on obligations of the United States which was included in the Federal gross income of the taxpayer for the year.

In addition to interest on U.S. obligations, there are two other adjustments which are mandatory for a qualified resident tax based on taxable income: net tax-exempt income and net State income tax deduction. These two adjustments are not made mandatory for the resident tax based on a percentage of Federal tax. Instead, in this case these adjustments are permitted to be made by a State but are not required (since the State may prefer the simpler system obtained from omitting these adjustments). However, in order to sim-

plify the administration of the Federal collection system, the bill provides that if either of these adjustments is to be made with respect to a State's tax, then they both must be made.[11]

The committee amendments modify the House bill with respect to the adjustment for interest on State and municipal obligations in the same manner and for the same reason that the commmitee modified this adjustment for a qualified resident tax based on taxable income. Thus, if a State calculating its tax as a percentage of Federal tax liability wishes to make the adjustment for net tax-exempt income, it must do so in one of three ways; it can tax the interest from either (1) all tax-exempt (i.e., exempt from Federal income taxation) State and municipal obligations, (2) all tax-exempt State and municipal obligations other than those issued by that State and its subdivisions, or (3) all tax-exempt State and municipal obligations other than those issued by that State or its subdivisions prior to the same date, such as date that that particular State enters into the piggybacking system.

The committee agreed with the House that a State should be permitted to allow a credit for income taxes paid to another State or a political subdivision of another State. This permitted adjustment is identical to one of the permitted adjustments provided for a qualified resident tax based on taxable income. Under the House bill, an additional adjustment was permitted for a uniform nonrefundable per capita credit for general sales tax. The committee amendments deleted this adjustment for the same reason that the adjustment was deleted for a qualified resident tax based on taxable income; that is, to avoid placing an undue administrative burden on the Internal Revenue Service.

Manner of making adjustments.—The adjustments described above, both with respect to a qualified resident tax based on taxable income and a qualified resident tax which is a percentage of the Federal tax, are of two basic types: that which is a direct credit against State tax liability, which may easily be made (the credit for income tax paid to another State); and those which necessitate recomputation of taxable income (e.g., adjustment for interest on U.S. obligations). To avoid complexity to the extent possible in the case of the latter class of adjustments, it is expected that regulations promulgated by the Secretary or his delegate will provide that these adjustments (whether they relate to a tax based on Federal taxable income or a tax which is a percentage of Federal tax liability) will be made directly to taxable income. Thus, for example, in the case of the adjustment for interest on U.S. obligations, no account will be taken of the reduction of Federal adjusted gross income which would result from excluding from gross income interest on such obligations. Therefore, no further adjustment will be made on account of any increase in the amount of deductible medical expenses which would result from recomputing adjusted gross income (sec. 213). Similarly, no recomputation will be made on account of the reduction of the "contribution base" employed

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[11] In the case of a State using the percentage of tax liability method where no adjustment is made for State tax liability, the committee is aware that significant problems might be posed for an accrual basis taxpayer in computing his Federal deduction for State taxes if such deduction were based on his State income tax *liability* for the year (as opposed to his State income tax *payments* for the year). The State income tax liability would depend on the Federal liability and the Federal liability for such a taxpayer would depend upon his State liability. As a result, the committee contemplates that regulations may require that the State income tax deduction be computed on the cash rather than the accrual basis.

in determining the amount of deductible charitable contributions (sec. 170).

Qualified nonresident tax.—In addition to taxes on the worldwide income of residents, the bill provides that a State tax on nonresidents may be qualified and, therefore, collectible by the Federal Government. In order to prevent an undue administrative burden being placed on the Internal Revenue Service, for a nonresident tax to qualify, several requirements must be met. First, the bill provides that a nonresident tax of a State will not be qualified unless the State also imposes a qualified resident tax. Second, the tax must be imposed by the State on all of the "wage and other business income" derived from sources within the State by all nonresidents. Third, the tax may apply only if 25 percent or more of a nonresident's wage and other business income is derived from sources within the State imposing the tax. It is expected that wage and other business income will generally be regarded as being derived from sources within the State in which the labor or personal services giving rise to the income are performed. A final requirement for a qualified nonresident tax is designed to assure that the State does not tax the income of nonresidents more heavily than the income of residents. Thus, a non-resident tax will not be treated as qualified unless the amount of tax imposed by a State on the income of a nonresident does not exceed the tax that would be imposed by the State if he were a resident and if his taxable income were an amount equal to the excess of his wage and other business income derived from sources within the State, over that portion of the nonbusiness deductions allowable under the State's qualified resident tax which bears the same ratio to the total of such deductions that the wage and other business income derived from sources within the State bears to the taxpayer's adjusted gross income.

It is contemplated that in computing the nonresident tax, the regulations will provide that an adjustment will be made for business expenses related to the earning of wages which are deducted from gross income in order to determine adjusted gross income.

Additionally, it is expected that the regulations will include in "nonbusiness deductions" all those deductions allowable from adjusted gross income in computing taxable income.

As used in the bill, the term "wage and other business income" means: (1) wages, as defined for purposes of chapter 24 of the Internal Revenue Code relating to the collection of income tax at source on wages (sec. 3401(a)); (2) net earnings from self-employment, as defined for purposes of the tax on self-employment income (sec. 1402 (a)); and (3) the distributive share of income of a trade or business carried on by a trust, estate, or electing small business corporation to the extent the distributive share is includible in the gross income of an individual for the taxable year and would constitute net earnings from self-employment if the trade or business were carried on by a partnership. For purposes of the third category of income referred to above, "distributive share" includes the income of a trust or estate which is taxable to beneficiaries under applicable Federal tax rules, and the undistributed taxable income of an electing small business corporation which is taxable to its shareholders (sec. 1373).

General definition of a resident.—In defining a qualified resident tax as one imposed on the income of individuals who are residents of a

particular State, it was recognized that presently the residency requirements of States vary considerably. The committee recognized that it would be difficult, if not impossible, for the Internal Revenue Service to administer the Federal collection system if it had to take into account each of the various State definitions of residence. Accordingly, while it would be desirable for all States to adopt uniform residency rules, the major problem was resolved under the bill by establishing a uniform residence rule for those States participating in the system. This is intended to end, for those States in the system, the present situation where it often is possible for a taxpayer to evade State income taxes by maintaining in State A that he resides in State B and maintaining in State B that he resides in State A. Administration by the Federal Government of the income tax laws of both State A and State B should substantially eliminate this possibility. Another example of the manipulative possibilities under the present State residency rules involves taxpayers who may legally avoid residence status by taking advantage of the different time requirements for achieving the status in different jurisdictions. For example, a taxpayer who moves from the District of Columbia to Maryland on July 15, may avoid both the District of Columbia tax (since the District of Columbia requires residence for 7 months of the taxable year before subjecting a nondomiciliary to income tax for that year) and the Maryland tax (because Maryland requires residence for at least 6 months for nondomiciliaries during the taxable year).

In framing a uniform definition of residence, the committee attempted to balance the administrative difficulties which result from the frequent changes in the individual's status as a resident with the potential for manipulation that a long time period State residency rule might provide. Accordingly, under the bill an individual is treated as a resident of a State if he maintains his principal place of residence in a State for at least 135 consecutive days and if at least 30 of these days are in the taxable year involved. During the time the taxpayer is temporarily absent from the State for vacation, business trips, etc., the 135-consecutive days are to continue to run. It will, of course, also continue to run if the absence is for the purpose of avoiding State income tax. For example, if a taxpayer moves to State A on November 15, 1975, and continues to maintain his principal place of residence there through March 29, 1976, he will be treated as a resident of State A for the taxable year 1975 even though he was out of the State for two weeks during this period while on vacation. (It is not the intent of the committee by this residency rule to either authorize or require that a Senator, Representative, Delegate, or Resident Commissioner be treated as a resident of a State other than the one he represents in Congress.)

In the case of a citizen or resident of the United States who is not treated as a resident of any State by reason of the 135-day rule, the committee concluded that the proper State to tax him is his State of domicile. Therefore, the bill provides that such an individual is to be treated as a resident of his State of domicile if he has been domiciled in that State for at least 30 days during the taxable year. It is not necessary, however, that the 30 days be consecutive.

Residency rules for an estate or trust.—An estate of an individual is to be treated as a resident of the last State in which he was a resident (under the rules discussed above) prior to the individual's death.

In the case of a trust, many different rules are currently being applied by the States. To eliminate this confusion, the bill provides rules that are both uniform and believed to be administratively manageable for the Internal Revenue Service. A testamentary trust is to be treated as a resident of the last State of which the decedent who created the trust was a resident before his death (under the rules described above).

In the case of an inter vivos trust (one created during the life of the settlor of the trust), the bill provides that the residency of the trust is to be established by determining the State in which the principal contributor was a resident for the greatest amount of time during the 3-year period immediately preceding the creation of the trust. The principal contributor is the individual who contributed assets having the greatest fair market value on the date of the creation of the trust.

In any case where an existing trust receives assets which have a greater aggregate value than those which have previously been contributed to the trust, for the purposes of these residency rules the trust is to be treated as being created on the date the new assets are received. Thus, an inter vivos trust may be converted into a testamentary trust (for purposes of the foregoing residency rules) by virtue of a contribution of assets at the death of the grantor which exceed in value the aggregate value of all previous contributed assets. In determining the aggregate value of assets under this provision, the value of each asset is to be its fair market value on the day it was contributed to the trust.[12]

While a trust is treated as being created a second time for purposes of determining residency where a second person contributed more than the first, the subsequent creation does not imply that there is a dissolution of the trust. As a result none of the assets will be treated as being distributed to the beneficiaries of the trust (solely by reason of this subsequent creation).

The bill provides that the Secretary or his delegate may by regulations prescribe rules for determining the residence of a trust if the foregoing rules would create more than one (or no) State of residence.

Allocating income where an individual is a resident of two States.—Another aspect of the residency problem involves the situation where the taxpayer is treated as a resident of more than one State during the

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[12] For example, taxpayer W creates an inter vivos trust by contributing $100,000 to it on March 1, 1976. W has resided in State A for the entire 3-year period immediately preceding the creation of the trust. No other assets are transferred to the trust during the taxable year 1976. Under the bill, the trust is treated as a resident of State A for purposes of the qualified State individual income tax imposed by that State. On January 1, 1978, X contributes $120,000 to the trust and on September 10, 1978, Y contributes $200,000 to it. X has resided in State B for the entire 3-year period immediately preceding his contribution and Y has resided in State C for the entire 3 years immediately preceding his contribution. No other assets have been contributed to the trust during the taxable years 1977 and 1978. The trust is treated as being created on January 1, 1978, for purposes of determining the new residence of the trust under the bill, since X had transferred assets having a value greater than the aggregate value of all assets transferred to the trust prior to that date ($100,000). Since X is the principal contributor to the trust on the date of the subsequent creation, January 1, 1978, the trust is treated as a resident of State B for taxable year 1978. Although Y's $200,000 contribution exceeded X's $120,000 in 1978, he is not treated as the principal contributor since he did not contribute more to the trust than the previous aggregate contributions ($220,000).

On June 1, 1979, the trust receives under the will of Z assets having a fair market value of $500,000. Z was a resident of State A immediately prior to his death. No other assets are transferred to the trust during 1979. Under the bill, the trust is treated as being created on June 1, 1979, the date of Z's death, and is treated as a testamentary trust, since Z has contributed assets having a greater value than the combined assets previously transferred to the trust. The trust is treated as a resident of State A for purposes of the qualified individual income tax imposed by State A for taxable year 1979. Since the trust is a resident of both State A and State B during the taxable year 1979, each State taxes the income from the trust proportionately in accordance with the rules discussed below, in this report.

taxable year. The committee concluded that in this case the simplest method for allocating an individual's income between the States is on the basis of the time the taxpayer resided in each State. As a result, the qualified State individual income tax for each State in which the taxpayer was a resident is determined by first computing the amount of tax as if the taxpayer had been a resident of each State for the entire year. The amount of tax for each State (determined after the allowance of nonrefundable credits) is then multiplied by a fraction, the numerator of which is the number of days the taxpayer was a resident of the State and the denominator of which is the total number of days in the taxable year. For example, if a calendar year taxpayer were to reside in a State until May 26 (the 146th day of the year), then the qualified State individual income tax for that State would be 2/5 of what it would have been if the taxpayer had been a resident of that State for the entire year. If the taxpayer resides for the remaining 219 days of the year in another State imposing a qualified resident tax, that other State's tax would be 3/5 of what it would be if the taxpayer had been a resident of that other State for the entire year. In any case where an individual is treated as a resident of a State by reason of his domicile, the numerator of the fraction is the number of days he was domiciled in that State.

Withholding and declarations of tax.—The bill provides that the requirements for withholding tax and for the declaration and payment of estimated tax are to apply to an individual if he either reasonably expects to reside in the State for 30 or more days or he is a resident of that State (as determined under the bill). In the case of a qualified nonresident tax, an individual is to be subject to withholding and estimated tax if he reasonably expects to receive wages and other business income for 30 days or more during the taxable year. The Secretary or his delegate may prescribe the rates for the withholding of State individual income taxes in order to be able to integrate State withholding with Federal withholding. In addition, if any withholding is required for a State individual income tax, the employer must furnish the employee with a statement with respect to the State tax which provides information similar to that provided in the W–2 Form with regard to the Federal individual income tax.

Additional requirements.—In addition to the rules set forth above, the bill also provides other rules applicable to all qualified taxes. These rules are designed to perfect the definitions of qualified taxes and to assure that these taxes may be conveniently collected by the Internal Revenue Service.

First, there must be a Federal collection agreement with a State. A State tax will be considered qualified only if the State has entered into such an agreement for the taxable period in question. The nature of the agreement is described in the next portion of this report.

Second, State law must incorporate all future changes in the Federal individual income tax laws for the period the agreement is in effect. Serious problems would be created if a qualified tax would cease to be qualified by virtue of a change in Federal law. For example, if, on January 1, 1974, a State adopts a resident tax based on Federal taxable income and adopts applicable Federal law on that date for purposes of computing taxable income, questions may be raised as to what would be the effect of a change in Federal law on June 1, 1974. Unless the

original State legislation effectively incorporates future changes in Federal law, a degree of uncertainty would attend such changes and would require State legislatures to periodically readopt Federal law as it existed on a particular date. As a result, the committee's bill requires the laws of a participating State to provide that the provisions of the Federal law (and the regulations thereunder) with respect to the collection of State individual income taxes, as in effect from time to time, are made applicable for the entire period for which the State agreement is in effect. The committee recognizes that several States may have constitutional problems in adopting such a law. However, it is believed that not to require continuing conformance of State taxes with Federal law would create severe difficulties in the administration of the program.

Third, States are limited in the extent to which they can change their tax laws toward the end of the year. Under the House bill, in order for a State tax to be qualified, the State's law must contain a provision that any change by that State in its qualified tax (including changes in the tax base and the tax rate) will not apply to taxable years beginning in any calendar year for which the State agreement is in effect, unless the change is enacted before September 1, of that calendar year. This restriction, however, does not apply to changes in State law resulting from the continuing conformance provision discussed above (that is, when the State law automatically adjusts to changes in the Federal law). The committee concluded that the 4-month time period provided in the House bill (new code sec. 6362(f)(2)(B)) for the Internal Revenue Service to make necessary adjustments to reflect the changes in State law is more than adequate and has the adverse effect of restricting State action on revenue matters. It is often extremely difficult for a State to complete legislative action on a controversial tax change before September 1. In addition, the State may not know until near the end of a calendar year that it is necessary to increase the tax rate in order to respond to changes in the Federal law which otherwise significantly affect the State's revenues. Accordingly, the committee amendments modify the House version by changing the September 1 date to November 1.

Fourth, only certain types of individual income taxes may be imposed by a State with qualifying taxes. Since an important objective of the bill is to simplify State individual income tax structures so that taxpayers may more easily compute their tax liability, the bill provides that for a State tax to be qualified, the State may only impose a qualified resident tax and a qualified nonresident tax. In addition, however, it may also impose a separate tax on income other than wage and other business income and which is received or accrued by individuals who are domiciled in the State but who are not residents of the State (within the bill's definition of resident individuals). Although this third type of permitted tax is not one which is eligible for Federal collection, and may result in complicating somewhat a State's individual income tax structure, the committee concluded that limiting permitted taxes to those which have qualified under the bill might create some opportunities for tax avoidance by taxpayers who are domiciliaries of a participating State, but who can arrange their affairs so that, under the bill, they will be regarded as residents of another State. This problem may be illustrated by the following exam-

ple: T, a domiciliary of State A which is a participating State, does not have his residence in the State for a period of at least 135 consecutive days of which at least 30 days of that period are within the taxable year. Instead, T establishes a residence within State B for such a period during the year so that he is regarded as a resident of State B for that year. For this purpose, it is immaterial whether State B is a participating State. If T has a substantial amount of investment income, it may not be difficult for him to arrange his affairs so as not to be a resident of State A (which may have a relatively high qualified resident tax). If State B has a low income tax, or none at all, T could achieve substantial tax savings if State A could not impose any tax other than a qualified resident tax. As a result, the bill permits State A to impose a separate income tax on its domiciliaries who are not residents. Such a tax, however, must generally be limited to investment income.

Fifth, taxable years for Federal and State income taxes must conform. Unnecessary confusion would be created if the taxable year used by a taxpayer for purposes of a State qualified tax were different than the taxable year used by him in computing his Federal income tax. The bill eliminates this problem by requiring that a State qualified tax must provide that the taxable years of individuals under the State tax must coincide with their taxable years for purposes of the Federal individual income taxes. This provision, however, is not to apply where lack of conformity between State and Federal taxable years results solely from a State's entry into the Federal collection system. Thus, if a State adopts a tax which is otherwise qualified as of January 1, 1974, and enters into an agreement with the Secretary for the Federal collection of the tax as of that date, the tax is not to be disqualified by reason of the fact that an individual who is a calendar year State taxpayer but is a December 1 to November 30 fiscal year taxpayer for Federal income tax purposes will have a January 1 to November 30, 1974, short taxable year under the State's tax. That short taxable year will not be a piggyback year. After November 30, 1974, the taxable years of that taxpayer for State and Federal individual income tax purposes will end concurrently. Such a taxpayer is not free to adopt any other taxable year for purposes of the State tax than one ending on the same date as his taxable year for Federal income tax purposes.

Sixth, if joint returns are filed for Federal tax purposes, they must be filed for State tax purposes. To prevent administrative difficulties that would arise if taxpayers filing joint returns for Federal income tax purposes could file separate returns for qualified State individual income taxes, or vice versa, the bill requires that a qualified State individual income tax provide that married individuals (within the meaning of that term for purposes of the standard deduction computation (sec. 143)) who file joint returns for Federal income tax purposes must file joint returns for purposes of the State's qualified individual income tax, and such individuals who file separate returns for Federal income tax purposes must file separate returns for purposes of the State's qualified individual income tax.

Seventh, the State laws must not provide penalties for State income tax violations other than those provided for by this bill. As described above, the criminal and civil sanctions contained in the Internal Revenue Code and Title 18 of the United States Code, with respect to

the collection and administration of the Federal individual income taxes, are also to apply to the collection and administration of qualified State individual income taxes. These sanctions are exclusive, and the bill accordingly provides that in order for a State individual income tax to be qualified, the laws of the State must not provide other criminal or civil sanctions for an act (or omission to act) with respect to a qualified resident or nonresident tax than the ones an individual is subjected to by reason of the provisions of the bill. However, it is not intended by this provision to provide that only a single sanction may be applied to an act which is violative of both Federal and State law. Thus, if an individual willfully attempts to evade or defeat both Federal and qualified State individual income taxes by, for example, omitting income from both his Federal return and his State schedules, a separate criminal penalty as provided by the Internal Revenue Code (sec. 7201) of a fine of not more than $10,000 and imprisonment of not more than 5 years may be imposed twice—once with respect to the Federal tax and once with respect to the qualified State individual income tax. However, State law may not provide a separate sanction for an act apart from those sanctions that are described in the Internal Revenue Code and Title 18 of the United States Code. In effect, then, if a criminal sanction is imposed with regard to a State tax because of the piggyback provisions, then that is to be treated as a criminal sanction imposed by the State, for purposes of Federal and State constitutional provisions relating to double jeopardy.

Eighth, the State income tax treatment of partnerships, subchapter S corporations, and other conduits must in general conform to the Federal tax treatment of those conduits. With certain limited adjustments a qualified State resident tax, in effect, must treat the income of individuals in the same manner as the income is treated for Federal income tax purposes. Thus, an individual partner of a partnership who is taxable for Federal income tax purposes on his distributive share of partnership income will also be subject to tax under a qualified State resident tax on that distributive share. This is true whether the tax is based on Federal taxable income or computed as a percentage of Federal tax liability. The same type of conduit principle, which governs the taxation of partnerships and partners, also applies in various forms to trusts and estates and their beneficiaries, electing small business corporations and their shareholders, and other entity-individual conduit relationships, such as a cooperative corporation and its shareholders. The committee is of the view that in the situations where the conduit principle applies, there should be conformance between the Federal tax laws and the tax laws of a participating State in order to avoid the double taxation of income. As a result, the bill provides that a State individual income tax will be qualified only if the entities treated as conduits for purposes of the Federal income taxes are treated in the same manner under the State's applicable tax laws. For example, a subchapter S corporation in a piggybacking State is not to be subject to the State's corporate income tax on amounts which are includible in shareholders' incomes which are subject to that State's qualified individual income tax, except to the extent that the subchapter S corporation under Federal law is subject to the minimum tax (sec. 56) or to the tax on certain subchapter S capital gains (sec. 1378). Also, a partnership is not to be subject to the

State's unincorporated business income tax, under essentially similar rules.

For purposes of this provision, it is intended that applicable State law must also conform to the Federal procedural provisions necessary or appropriate for the collection or enforcement of the taxes imposed on individuals holding beneficial interests in a conduit entity. As indicated above, in the discussion of the new Code section 6361, the Federal procedural provisions are to be adapted by regulations to the extent necessary to take into account the differences between the Federal and State taxes. As a result, certain information not at present available on Federal returns may be needed from conduits (such as partnerships and subchapter S corporations) in order to properly administer the State taxes. Thus, for example, where there are questions as to the source of income or State of residence of the partner or shareholder for purposes of a commuter tax or as to the amount of exempt State or municipal bond interest, it is necessary that the State law contain the same filing requirements (with the information going to the Federal Government) for partnerships as is contained in Federal law (sec. 6031).

Ninth, the State law must not in any way diminish the relief provided to any member of the Armed Forces by section 514 of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. sec. 574). That Act provides that for purposes of State and local income taxes, an individual is not to be considered to have become a resident or domiciliary of a State solely because of his absence from his original domicile or residence under military orders. In addition, for purposes of these taxes, compensation for military service is not to be considered as being from sources within a State of which the individual is not a resident or domiciliary. The committee does not wish to disturb existing law in this respect. That Act's source-of-income rule does not apply, however, to nonmilitary compensation. As a result, if an individual who is serving in State A as a member of the Armed Forces, and is regarded under the Soldiers' and Sailors' Civil Relief Act as a resident of State B, earns nonmilitary income in State A from a part-time job, that nonmilitary income may be subject to a qualified nonresident tax in State A.

Tenth, the State law must not contravene the provisions of section 26, 226A, or 324 of the Interstate Commerce Act or of section 1112 of the Federal Aviation Act of 1958 with respect to the withholding of compensation to which those Acts apply, for purposes of the State's qualified nonresident tax. Those Acts generally provide that no part of the compensation paid to an employee of an interstate carrier is to be subject to a State's withholding tax unless more than 50 percent of the employee's compensation from the carrier during the preceding calendar year was earned in the State in question; and, if more than 50 percent of the compensation was not earned in a single State, then withholding may be required only by the State of the employee's residence.

3. STATE AGREEMENTS AND OTHER PROCEDURES (SEC. 202 OF THE BILL AND NEW SEC. 6363 OF THE CODE)

Under the bill, the Federal collection of State individual income taxes is based upon a voluntary system. States are given both the

freedom to enter into a Federal tax collection system when they choose (subject to limitations described below under General Effective Date) and, also, to withdraw from the Federal collection system when they so desire.

Entry into system.—A State electing to enter into an agreement to have its individual income taxes collected by the Federal Government must file a notice of election with the Treasury Department. The Secretary or his delegate is to prescribe by regulations the manner in which the notice is to be filed and the supporting information required to be contained in the notice. For example, the regulations may require the State to furnish a copy of its individual income tax law, an opinion by the State Attorney General that the State law's incorporation by reference of the Federal individual income tax laws and regulations (to the extent required by this piggyback collections subchapter) does not violate the State's constitution, and any other information that may be helpful in determining if the State has a qualified individual income tax. Also, to facilitate Federal administration of the State's tax, and in conformity with new code section 6365 (described below), the State's election is to become effective, as to a taxpayer of that State, on the first day of his first taxable year beginning on or after January 1, rather than to begin at any other date in a taxable year. (The committee has been informed that fewer than one-tenth of one percent of individual taxpayers are on a fiscal tax year basis. As a result, preparation for an initiation of Federal administration of a State's individual income tax would be simpler if any such administration begins on a January 1.) The Secretary of the Treasury must enter into an agreement with the State unless he determines that the State does not have a qualified individual income tax and notifies the Governor of this determination within 90 days after the notice of the election is filed by the State. (The Secretary's decision rejecting an agreement is reviewable in the courts, as described below.) In order to provide the Federal Government sufficient time to implement the Federal collection system with respect to the electing States, the bill provides that the agreement is to become effective only for taxable years beginning on or after the first January 1 which is more than six months after the date the State notice is filed.

Withdrawal.—In providing for State withdrawal from the Federal collection system, the committee was concerned with two separate situations. As explained above, it was felt that not only should each State have freedom to choose whether to enter into a Federal tax collection system, but also that each State should have an opportunity to withdraw from the Federal collection system if it so desires. The bill provides for this by allowing a State to voluntarily withdraw from this system by notifying the Treasury Department of an intention to withdraw. This notice is to be made in the manner prescribed by regulations and must specify the State's intended date of withdrawal. However, to facilitate orderly withdrawal, the date specified in the notice generally is not to be earlier than the first day of taxable years beginning after the first January 1 which is more than six months after the date the notice is filed.

There is also the question as to the treatment to be provided where changes are made in a participating State's law. As discussed above,

Federal collection of State individual income taxes is feasible only if a State's law conforms closely to the Federal law. Accordingly, under the bill, if a State so amends its laws (including its constitution) as to have the effect of causing the State's tax to no longer be a qualified individual income tax, such a change is to be treated as an intention to withdraw from the collection system. In this case, the Secretary of the Treasury must notify the State's Governor that the change is treated as an intention to withdraw. The notification is to be effective on the date of the change in the State law except that this date is not to be earlier than the first day of taxable years beginning after the first January 1 which is more than six months after the date of notification. For purposes of the Federal collection of State individual income taxes, the change in State law is not taken into account until the taxable year the withdrawal is to be effective.

Transition years.—Transitional rules are provided to cover situations where the Federal-State collection agreement ceases to apply on a day which does not coincide with the last day of the taxpayer's taxable year. These rules are intended to insure that a taxpayer receives full credit during his taxable year for amounts paid to the Federal Government, whether by withholding, estimated tax, credit in lieu of refund, or otherwise, prior to the termination of the agreement. This result is achieved by treating amounts which previously were paid to the Federal Government on account of the State's qualified income tax for the taxable year as having been paid on account of the State's individual income tax for the taxable year and by transferring the amounts to the State as though the agreement had not been terminated. Similarly, the returns, applications, elections, and other forms filed with the Secretary or his delegate, prior to termination of the Federal-State agreement, which are thereafter required to be filed with the State Government, are to be treated as having been appropriately filed with the State Government. The Internal Revenue Service is to transmit to the State those returns, etc. (or certified copies, if the Service has need for the originals).

A State entering into an agreement for Federal collection may, without abrogating the agreement, enact legislation to the extent necessary to prevent double taxation or other unintended hardships or to prevent unintended benefits during the transition. This program may be administered jointly by the State and Federal Government or by either, as may be provided in Treasury Department regulations.

Judicial review.—The bill provides a system for judicial review in any case where the Secretary or his delegate has notified a State that he has determined that the State does not have a qualified individual income tax. The State may file a petition for review of the Secretary's adverse determination with the appropriate United States court of appeals within 60 days after the Governor has been notified. The "appropriate" court is to be the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia. The clerk of the court is to promptly transmit a copy of the petition to the Secretary or his delegate. The Secretary or his delegate thereupon is to file with the court a record of the proceedings on which he based his determination.

The court may affirm or set aside (in whole or in part) the action of the Secretary or his delegate, and issue any other orders as may be

appropriate affecting taxable years which include any part of the period of litigation. If the Federal Government has determined that a change in a State's law causes the State's individual income tax law to cease to be "qualified", such change is not effective for the purposes of administering the State tax during the period of litigation.

If the judgment of the court of appeals includes either a determination that the State has a qualified individual income tax or that it does not have a qualified individual income tax, then the provisions for Federal collection of State taxes are to apply, or not apply, as the case may be, for taxable years after the first January 1 which is more than six months after the date of final judgment.[13] The judgment of the court of appeals is to be subject to review by the Supreme Court of the United States upon a petition for certiorari or by certification. Since the nature of such litigation—a suit by a State against the Federal Government—involves a significant relationship in our Federal system, the bill provides that upon the request of either the Secretary of the Treasury or the State, these judicial proceedings are to receive a preference and be heard and determined as expeditiously as possible.

4. REGULATORY AUTHORITY (SEC. 202 OF THE BILL AND NEW SEC. 6364 OF THE CODE)

The committee recognizes that unforeseen problems may arise in the application of these new provisions. In order to prevent any result which is inconsistent with the purposes of these provisions, the Secretary or his delegate is given broad authority to prescribe those regulations necessary or appropriate to carry out the purposes of these provisions.

5. DEFINITIONS AND SPECIAL RULES (SEC. 202 OF THE BILL AND NEW SEC. 6365 OF THE CODE)

Under the bill, the agreement to enter into or withdraw from the Federal collection of State individual income taxes must take effect only on the first day of a calendar year. Federal withholding of State individual income taxes is to begin to apply or cease to apply with respect to wages paid on or after that day, and all other provisions of subchapter E of chapter 64 (the piggyback subchapter) are to begin to apply or cease to apply to taxable years beginning on or after that day.

The bill provides special definitions of the terms "State" and "Governor" when applied to the District of Columbia.

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[13] For example, assume State A desires to enter into a Federal-State collection agreement and properly files a notice with the Secretary or his delegate of its intention on April 10, 1974, specifying that the agreement is to become effective on January 1, 1975. After review by the Secretary or his delegate, assume that the Secretary determines that State A's individual income tax is not "qualified" and notifies the Governor of his determination on July 2, 1974. (The last date for such notification would be July 9, 1974, 90 days after the filing of the notice of election, on April 10, 1974.) On August 20, 1974, assume further that State A files a petition for review of the Secretary's adverse determination. (The last date for filing the petition would be August 31, 1974, 60 days after the Governor was notified of the Secretary's decision, on July 2, 1974.) Finally assume that the court, after reviewing the Secretary's determination, decides on July 15, 1975, that State A has a qualified individual income tax. In such case, the agreement between State A and the Federal Government is to be effective for taxable years beginning on or after January 1, 1977.

6. CONFIRMING AMENDMENTS (SEC. 203 OF THE BILL AND SECS. 6405 AND 7463 OF THE CODE)

Under the bill, existing law requiring Joint Committee on Internal Revenue Taxation review of large proposed administrative refunds is extended to apply also to qualified State individual income taxes to which the piggyback provisions apply. Thus, for purposes of the review provision, a proposed refund of $80,000 Federal individual income tax and $20,000 State individual income tax for the same taxable year is to be treated as a single proposed $100,000 income tax refund for that taxable year.

The bill provides that the new procedure for handling small cases in the Tax Court (enacted as part of the Tax Reform Act of 1969) will apply to disputes involving the Federal collection of a State's qualified individual income tax. The bill increases the jurisdictional amount for the small tax case procedure from $1,000 to $1,500 in order to take into account the amount of the State tax involved. It is contemplated that these small tax cases will, in general, continue to be tried before Tax Court commissioners, with that court continuing to have the power to authorize its commissioners to hear other cases (e.g., small cases where the taxpayers have not elected the simplified procedures), as was the situation after enactment of the Tax Reform Act of 1969.

7. GENERAL EFFECTIVE DATE (SEC. 204 OF THE BILL)

The committee generally adopted the effective dates in the House bill with one modification. The House bill provided that the section granting authority for Federal collection of qualified State individual income taxes was to go into effect January 1, 1974, if two conditions were met. First, at least 5 States must have notified the Secretary of the Treasury before the preceding January 1, of their elections to enter into a Federal-State agreement. Second, those States must have residents who in the aggregate filed 5 percent or more of the Federal income tax returns filed during 1972. The committee amendments deleted the 5-State requirement, but retained the 5-percent requirement. If the 5-percent requirement is not met by January 1, 1974, then the provisions for Federal collection of State taxes shall become effective for taxable years beginning on or after the first January 1, that is more than one year after the first time the 5-percent when this requirement is met.

The committee recognized that "leadtime" is necessary for the Treasury Department to develop and publish final regulations and for States to enact appropriate legislation incorporating the necessary requirements of the bill. In addition, the Treasury Department has informed the committee that the costs of instituting such a collection system may be substantial. Start-up costs have been estimated to be $22.5 million if 10 States adopt piggybacking, 5 of which base their tax on percentage of Federal liability and 5 of which base their tax on Federal taxable income. (See discussion of estimated cost below). However, the committee feels that the intention of the 5-percent requirement would

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appear to satisfy the argument that start-up costs should be considered even where only one State has notified the Secretary of the Treasury of its intention to enter into the piggybacking system if that State, by itself, satisfies the 5-percent requirement. (Six States would apparently qualify under this requirement).

To facilitate the publishing of regulations to provide authority for filing of returns and jurisdictional review in the interim, the remaining provisions of this title (other than the change in Tax Court small tax case jurisdictional amount) are to take effect on the date of the bill's enactment.

The change in the Tax Court small tax case jurisdictional amount is to apply as of January 1, 1974.

8. ESTIMATED COSTS OF ADMINISTERING THE FEDERAL COLLECTION OF STATE INCOME TAXES

The Internal Revenue Service has had difficulty in estimating the cost of the collection of the State income taxes in part because of the fact that there is no way of knowing as yet how many States may make use of this Federal service. In addition, it is difficult to estimate the cost of the program until the specifics of the various State laws can be obtained. These, of course, include changes not yet made by the States to conform their systems to the new Federal requirements for Federal collection. There are two types of costs involved in the provisions: The cost of initiating the program for the Service and the continuing costs. Start-up costs are the initial outlay which must be made to purchase additional computer equipment, the printing and distribution and forms, etc., the training of personnel to administer the system, the development of instructional guides as to items such as programming, collection, and taxpayer service, and finally, regional informational activities. These start-up costs have been developed on a series of assumptions as to how many States might make use of the Federal collection system. One assumption is that 10 States adopt the Federal collection system. In this, it is assumed that 5 States adopt the system which base their tax on a percentage of Federal liability and that 5 States which base their tax on Federal taxable income adopt the system.[14]

The estimated cost under this assumption is $22.5 million. Should all States make use of the Federal system, the start-up costs are estimated at $33.3 million.

In addition to the start-up costs, the Internal Revenue Service estimates that processing and compliance costs which are annual recurring costs would be about $2.5 million per million returns. This is exclusive of overhead and related costs which the Service believes approximate 25 percent of start-up costs.

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[14] The States taken into account for purposes of this estimate which base their tax on Federal liability are Alaska, Nebraska, New Mexico, Rhode Island, and Vermont. The five remaining States which base their tax on Federal taxable income are California, Illinois, Maryland, Minnesota, and New York.

V. GRANTS TO STATE AND LOCAL GOVERNMENTS FOR SOCIAL SERVICES

(Title III of the Bill)

1. PRESENT LAW

Before 1962, services provided to welfare recipients were subject to the same 50 percent Federal matching as was available for administrative expenses. In order to encourage States to provide social services designed to prevent and reduce dependency on welfare, the Congress in 1962 enacted legislation increasing the Federal matching for social services to 75 percent while leaving Federal matching for administrative costs at 50 percent. No definition of social services was included either in the 1962 bill or in the Committee reports on the legislation; defining and controlling the scope of services was left to the Secretary of Health, Education, and Welfare and the States.

2. RAPID RISE IN FEDERAL FUNDS FOR SOCIAL SERVICES

Like Federal matching for welfare payments, Federal matching for social services under present law is mandatory and open-ended. Every dollar a State spends for social services is matched by three Federal dollars. The Secretary, by law, is given specific authority to limit the contracting authority for social services and to limit the extent of services to potential (as opposed to actual) welfare recipients. In both cases, however, he has failed to establish effective limitations. In fact, the regulations he has promulgated and the actions of HEW regional officials have invited the very expansion which has taken place. In the last two years particularly, States have made use of the lack of limits on social services under the Social Security Act and the Act's open-ended 75 percent matching to pay for many programs previously funded entirely by the States or funded under other Federal grant programs at lower than 75 percent matching.

The Federal share of social services was about three-quarters of a billion dollars in fiscal year 1971, about $1.5 billion in 1972, and will be an estimated $4.7 billion for fiscal year 1973. Under present adminstrative guidelines—or perhaps more correctly lack of guidelines—States have succeeded in financing almost any government activity under this provision. The distribution of social services today seems based more on a State's aggressiveness and administrative ingenuity than the needs of its recipients of assistance. For example, one State financed a half million dollar TV documentary with social services money. In another State, social service funds have gone into the State highway department, while in still another State, funds are going for advice on personal grooming to potential parolees from the State prisons. State welfare departments, which are supposed to exercise control over these expenditures, are becoming little more than fiscal conduits. Some States have even gone so far as to formally appropriate private funds—like UGF, and so forth—so they will qualify for Federal matching money.

At this point in time when social services expenditures are expanding at very rapid rates—and vary from State to State with no discernible relation to the welfare population—it appears that the Secretary of Health, Education, and Welfare, estopped by his past actions

in approving State plans, is now incapable of taking any effective steps which will restore fiscal responsibility.

3. COMMITTEE ACTION

The Committee bill replaces the provisions of present law under which 75 percent Federal matching is available on an open-ended basis for social services to welfare recipients and persons likely to become dependent on welfare. Beginning January 1, 1973, open-ended 75 percent Federal matching are to continue to be available only for child care and family planning services; moreover not more than 12½ percent of all Federal funds for these two services can go to any one State. Child care services covered by this provision are those needed to enable a member of the family to work (or to take job training) or to provide necessary supervision for a child whose mother is dead or incapacitated. Although the bill does not limit the type of child care which the State can make available or purchase for such children, it does not authorize the States to simply establish or underwrite massive child care or pre-kindergarten programs in low-income neighborhoods (as some States have done under interpretation of existing law) and claim 75 percent Federal matching.

Beginning January 1, 1973, the committee bill replaces grants for social services (other than that for child care and family planning referred to above) by the supplementary sharing grants described in Title I of the bill. As was indicated in the prior discussion, authorizations for those grants of up to $1 billion are provided. These grants are to be allocated among the States on the basis of urbanized population.

For the period between July and December 1972, the Committee adopted a special transitional provision which will benefit those States which now have somewhat larger social service programs by permitting them to maintain their programs at the present level until the end of December 1972. Specifically, for the last six months of calendar year 1972, the State government is to receive (other than for child care and family planning services) the higher of (a) its share of $500 million distributed among States on the basis of urbanized population, or (b) 75 percent of the cost of providing social services between July and December 1972, excluding the cost of any new social services provided after August 9, 1972, and also excluding the cost of any expansion of on-going programs after August 9, 1972.

VI. EFFECT ON THE REVENUES OF THE BILL AND VOTE OF THE COMMITTEE ON REPORTING THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the effect on the revenues of this bill. The bill provides for payments with respect to the first 6 months of the calendar year 1972 of $2.65 billion. For the fiscal year 1973, the payments provided for under the bill are $5.45 billion; for 1974, they are $5.75 billion; for 1975, they are $6.05 billion; and for fiscal year 1976, they are $6.35 billion. In the first half of the fiscal year 1977, payments provided for under the bill are $3.325 billion. No payments are provided thereafter. The costs of administering distribution of funds to State and local governments has been estimated by

the Treasury Department as amounting to $11.1 million in the first year and $9.3 million thereafter. The largest cost item listed is for the change on the income tax return indicating the county, township, and municipal residence of individuals plus the cost expected in obtaining compliance with this provision. This cost is estimated at $7.5 million in the first year and $3.5 million thereafter. These costs do not include research and development costs which are believed to be minor but as yet have not been ascertained. The cost of Federal collection of State individual income taxes has been estimated by the Internal Revenue Service as involving processing and compliance costs of $2.5 million per million returns. Overhead and related costs are estimated to increase this by 25 percent. Start-up costs of such a program vary widely according to the number of States electing Federal collection. Estimates of start-up costs vary from $22.5 million, assuming 10 representative States elect the service, while it is estimated that start-up costs would be $33.3 million if all States elected Federal collection. The Treasury Department agrees with this statement.

The Committee bill authorizes appropriations of an additional one billion dollars in annual grants, in lieu of certain social service grants under present law. During fiscal year 1972, grants for social services (other than child care and family planning services) under the Social Security Act totaled about one billion dollars. It is anticipated that amounts for social services would grow rapidly if the present law were not modified.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the tabulation of the roll call vote to report the bill is as follows:

In favor—12 (Messrs. Long, Anderson, Fulbright, Talmadge, Hartke, Ribicoff, Nelson, Bennett, Miller, Fannin, Hansen, and Griffin).

In opposition—4 (Messrs. Harris, Byrd (Va.), Curtis, and Jordan (Idaho)).

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART II—TAX RETURNS OR STATEMENTS

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Subpart B—Income Tax Returns

Sec. 6012. Persons required to make returns of income.
Sec. 6013. Joint returns of income tax by husband and wife.
Sec. 6014. Income tax return—tax not computed by taxpayer.
Sec. 6015. Declaration of estimated income tax by individuals.
Sec. 6017. Self-employment tax returns.
Sec. 6017A. Place of residence.

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SEC. 6017A. PLACE OF RESIDENCE.

In the case of an individual, the information required on any return with respect to the taxes imposed by chapter 1 for any period shall include information as to the State, county, municipality, and any other unit of local government in which the taxpayer (and any other individual with respect to whom an exemption is claimed on such return) resided on one or more dates (determined in the manner provided by regulations prescribed by the Secretary or his delegate) during such period.

CHAPTER 64—COLLECTION

SUBCHAPTER A. General provisions.
SUBCHAPTER B. Receipt of payment.
SUBCHAPTER C. Lien for taxes.
SUBCHAPTER D. Seizure of property for collection of taxes.
SUBCHAPTER E. Collection of State individual income taxes.

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Subchapter E—Collection of State Individual Income Taxes

Sec. 6361. General rules.
Sec. 6362. Qualified State individual income taxes.
Sec. 6363. State agreements; other procedures.
Sec. 6364. Regulations.
Sec. 6365. Definitions and special rules.

SEC. 6361. GENERAL RULES.

(a) COLLECTION AND ADMINISTRATION.—In the case of any State which has in effect an agreement with the Secretary entered into under section 6363, the Secretary or his delegate shall collect and administer the qualified State individual income taxes of such State. All provisions of this subtitle, subtitle G, and chapter 24 relating to the collection and administration of the taxes imposed by chapter 1 on the incomes of individuals (and all civil and criminal sanctions provided by this subtitle or by title 18 of the United States Code with respect to such collection and administration) shall apply to the collection and administration of qualified State individual income taxes as if such taxes were imposed by chapter 1, except to the extent that their application is modified by the Secretary or his delegate by regulations necessary or appropriate to reflect the provisions of this subchapter, or to reflect differences in the taxes or differences in the situations in which liability for such taxes arises.

(b) CIVIL PROCEEDINGS.—Any person shall have, with respect to a qualified State individual income tax (including the current collection thereof), the same right to bring or contest a civil action and obtain review thereof, in the same court or courts and subject to the same requirements and procedures, as he would have under chapter 76, and under title 28 of the United States Code, if the tax were imposed by section 1 (or were

for the current collection of the tax imposed by section 1). To the extent that the preceding sentence provides judicial procedures (including review procedures) with respect to any matter, such procedures shall replace judicial procedures under State law, except that nothing in this subchapter shall be construed in any way to affect the right or power of a State court to pass on matters involving the constitution of that State.

(c) TRANSFERS TO STATES.—

(1) PROMPT TRANSFERS.—Any amount collected under this subchapter which is apportioned to a qualified State individual income tax shall be promptly transferred to the State on the basis of estimates by the Secretary or his delegate. In the case of amounts collected under chapter 24, the estimated amount due the State shall be transferred to the State not later than the close of the third business day after the amount is deposited in a Federal Reserve bank. In the case of amounts collected pursuant to a return, a declaration of estimated tax, an amendment of such a declaration, or otherwise, the estimated amount due the State shall be transferred to the State not later than the close of the 30th day after the amount is received by the Secretary or his delegate.

(2) ADJUSTMENTS.—Not less than once each fiscal year the difference between collections (adjusted for credits and refunds) made under this subchapter during the preceding fiscal year and the transfers to the States made on account of estimates of such collections shall be determined, and such difference shall be a charge against, or an addition to, the amounts otherwise payable.

(d) SPECIAL RULES.—

(1) UNITED STATES TO REPRESENT STATE INTEREST.—

(A) GENERAL RULE.—In all administrative proceedings, and in all judicial proceedings (whether civil or criminal), relating to the administration and collection of a State qualified individual income tax the interests of the State imposing such tax shall be represented by the United States in the same manner in which the interests of the United States are represented in corresponding proceedings involving the taxes imposed by chapter 1.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

(i) proceedings in a State court involving the constitution of that State, and

(ii) proceedings involving the relationship between the United States and the State.

(2) ALLOCATION OF OVERPAYMENTS AND UNDERPAYMENTS.—If the combined amount collected in respect of a qualified State individual income tax for any period and the taxes imposed by chapter 1 for such period with respect to the income of any individual is greater or less than the combined amount required to be paid for such period, the collected amount shall be divided between the accounts for such taxes on the basis of the respective amounts required to be paid.

(3) FINALITY OF ADMINISTRATIVE DETERMINATIONS.—Administrative determinations of the Secretary or his delegate as to tax liabilities of, or refunds owing to, individuals with respect to qualified State individual income taxes shall not be reviewed by or enforced by any officer or employee of any State or political subdivision of a State.

SEC. 6362. QUALIFIED STATE INDIVIDUAL INCOME TAXES.

(a) QUALIFIED STATE INDIVIDUAL INCOME TAXES DEFINED.—For puposes of this subchapter—

(1) IN GENERAL.—The term "qualified State individual income tax" means—

(A) a qualified resident tax, and

(B) a qualified nonresident tax.

(2) QUALIFIED RESIDENT TAX.—The term "qualified resident tax" means a tax imposed by a State on the income of individuals who are residents of such State which is either—

(A) a tax based on taxable income which meets the requirements of subsection (b), or

(B) a tax which is a percentage of the Federal tax which meets the requirements of subsection (c),

and which, in addition, meets the requirements of subsections (e) and (f).

(3) QUALIFIED NONRESIDENT TAX.—The term "qualified nonresident tax" means a tax which is imposed by a State on the wage and other business income of individuals who are not residents of such State and which meets the requirements of subsections (d), (e), and (f).

(b) QUALIFIED RESIDENT TAX BASED ON TAXABLE INCOME.—

(1) IN GENERAL.—A tax meets the requirements of this subsection only if it is imposed on an amount equal to the individual's taxable income (as defined in section 63) for the taxable year, adjusted—

(A) by subtracting an amount equal to the amount of his interest on obligations of the United States which was included in his gross income for the year,

(B) by adding an amount equal to his net State income tax deduction for the year, and

(C) by adding an amount equal to his net tax-exempt income for the year.

(2) PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraph (1) shall not be deemed to fail to meet such requirements solely because it provides for one or more of the following adjustments:

(A) There is imposed a tax on the amount taxed under section 56 (relating to the minimum tax for tax preferences).

(B) A credit determined under rules prescribed by the Secretary or his delegate is allowed against such tax for income tax paid to another State or a political subdivision thereof.

(3) NET STATE INCOME TAX DEDUCTION.—For purposes of this subsection and subsection (c), the term "net State income tax deduction" means the excess (if any) of (A) the amount deducted from income under section 164(a)(3) as taxes paid to a State or a political subdivision thereof, over (B) amounts included in income as recoveries of prior income taxes paid to a State or a political subdivision thereof which had been deducted under section 164(a)(3).

(4) NET TAX-EXEMPT INCOME.—For purposes of this subsection and subsection (c), the term "net tax exempt income" means the excess (if any) of—

(A) the interest on obligations described in section 103(a)(1) other than obligations of the State and its political subdivisions, and

(B) the interest on obligations described in such section of the State and its political subdivision which under the law of the State is subject to the individual income tax imposed by the State, over

the sum of the amount of deductions allocable to such interest which is disallowed by application of section 265, and the amount of the proper adjustment to basis allocable to such obligations which is required to be made for the taxable year under section 1016(a) (5) or (6).

(c) QALIFIED RESIDENT TAX WHICH IS A PERCENTAGE OF THE FEDERAL TAX.—

(1) IN GENERAL.—A tax meets the requirements of this subsection only if it is imposed as a specified percentage of the excess of the taxes imposed by chapter 1 over the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable by sections 31 and 39).

(2) REQUIRED ADJUSTMENT.—A tax meets the requirements of this subsection only if the liability for tax is decreased by the decrease in such liability which would result from excluding from gross income an amount equal to the interest on obligations of the United States which was included in gross income for such year.

(3) PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for both of the following adjustments:

(A) the liability for tax is increased by the increase in such liability which would result from including as an item of gross income an amount equal to the net tax-exempt income for the year, and

(B) the liability for tax is increased by the increase in such liability which would result from including as an item of gross income an amount equal to the net State income tax deduction for the year.

(4) FURTHER PERMITTED ADJUSTMENT.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because a credit determined under rules prescribed by the Secretary or his delegate is allowed against such tax for income tax paid to another State or a political subdivision thereof.

(d) QUALIFIED NONRESIDENT TAX.—

(1) IN GENERAL.—A tax imposed by a State meets the requirements of this subsection only if it has the following characteristics—

(A) such tax is imposed by the State on the wage and other business income of individuals who are not residents of such State,

(B) such tax applies only with respect to wage and other business income derived from sources within such State,

(C) such tax applies only if 25 percent or more of the individual's wage and other business income for the taxable year is derived from sources within such State,

(D) the amount of such tax imposed with respect to any individual who is not a resident does not exceed the amount of tax for which he would be liable under such State's qualified resident tax if he were a resident of such State and if his taxable income were an amount equal to the excess of—

(i) the amount of his wage and other business income derived from sources within such State, over

(ii) that portion of the nonbusiness deductions taken into account for purposes of the State's qualified resident tax which bears the same ratio to the amount of such deductions as the income referred to in clause (i) bears to his adjusted gross income, and

(E) the State has in effect for the same period a qualified resident tax.

(2) WAGE AND OTHER BUSINESS INCOME.—The term "wage and other business income" means—

(A) wages, as defined in section 3401(a),

(B) net earnings from self-employment (within the meaning of section 1402(a)), and

(C) the distributive share of income of any trade or business carried on by a trust, estate, or electing small business corporation (within the meaning of section 1371(a)) to the extent such share (i) is includible in the gross income of the individual for the taxable year, and (ii) would constitute net earnings from self-employment (within the meaning of section 1402(a)) if such trade or business were carried on by a partnership.

(e) REQUIREMENTS RELATING TO RESIDENCE.—A tax imposed by a State meets the requirements of this subsection only if for purposes of such tax—

(1) RESIDENT INDIVIDUAL.—An individual (other than a trust or estate) is treated as a resident of such State with respect to a taxable year only if—

(A) his principal place of residence has been within such State for a period of at least 135 consecutive days and at least 30 days of such period are in such taxble year, or

(B) in the case of a citizen or resident of the United States who is not a resident (determined in the manner provided in subparagraph (A)) of any State with respect to such taxable year, such individual is domiciled in such State for at least 30 days during such taxable year.

Nothing in this subchapter shall be construed to require or authorize the treatment of a Senator, Representative, Delegate, or Resident Commissioner as a resident of a State other than the State which he represents in Congress.

(2) ESTATE.—An estate of an individual is treated as a resident of the last State of which such individual was a resident (within the meaning of paragraph (1)) before his death.

(3) TRUSTS.—

(A) TESTAMENTARY TRUST.—A trust with respect to which a deceased individual is the principal contributor by reason of property passing on his death is treated as a resident of the last State of which such individual was a resident (within the meaning of paragraph (1)) before his death.

(*B*) *Nontestamentary trust.*—*A trust (other than a trust descrieed in subparagraph (A)) is treated as a resident of such State with respect to a taxable year only if the principal contributor to the trust, during the 3-year period ending on the date of the creation of the trust, resided in the State for an aggregate number of days longer than the aggregate number of days he resided in any other State.*

(*C*) *Special Rules.*—*For purposes of this paragraph*—

(*i*) *If on any day before the close of the taxable year an existing trust received assets having a value greater than the aggregate value of all assets theretofore contributed to the trust, such trust shall be treated as created on such day. For purposes of this subparagraph, the value of any asset taken into account shall be its fair market value on the day it is contributed to the trust.*

(*ii*) *The principal contributor to the trust is the individual who contributed more (in value) of the assets contributed on the date of the creation of the trust (determined after applying clause (i)) than any other individual.*

(*iii*) *If the foregoing rules would create more than one State of residence (or no State of residence) for a trust, such trust shall be treated as a resident of the State determined under similar principles prescribed by the Secretary or his delegate by regulations.*

(*4*) *Liability for tax on change of residence.*—*With respect to a taxable year, in the case of an individual (other than an individual who comes into being or ceases to exist) who becomes a resident, or ceases to be a resident, of the State, his liability to such State for the resident tax is determined by multiplying the amount which would be his liability for tax (after the nonrefundable credits allowed against such tax) if he had been a resident of such State for the entire taxable year by a fraction the numerator of which is the number of days he was a resident of such State and the denominator of which is the total number of days in the taxable year. In the case of an individual who is treated as a resident of a State with respect to a taxable year by reason of paragraph (1)(B), the preceding sentence shall be applied by substituting days of domicile for days of residence.*

(*5*) *Current collection of tax.*—*In applying chapter 24 (relating to withholding) and section 6015 and other provisions relating to declarations of estimated income (and amendments thereto)*—

(*A*) *in the case of a resident tax, an individual is treated as subject to the tax if he reasonably expects to reside in the State for 30 days or more or if such individual is a resident of the State (within the meaning of paragraph (1), (2), or (3)), and*

(*B*) *in the case of a nonresident tax, an individual is treated as subject to the tax if he reasonably expects to receive wage and other business income (within the meaning of subsection (d)(2)) for 30 days or more during the taxable year.*

(*f*) *Additional Requirements.*—*A tax imposed by a State shall meet the requirements of this subsection only if*—

(*1*) *State agreement must be in effect for period concerned.*—*A State agreement entered into under section 6363 is in effect with respect to such tax for the taxable period in question.*

(2) State laws must contain certain provisions.—Under the laws of such State—

(A) the provisions of this subchapter (and of the regulations prescribed thereunder) as in effect from time to time are made applicable for the period for which the State agreement is in effect, and

(B) any change made by the State in the tax imposed by the State will not apply to taxable years beginning in any calendar year for which the State agreement is in effect unless such change is enacted before November 1 of such calendar year.

(3) State laws taxing income of individuals can only be of certain kinds.—The State does not impose any tax on the income of individuals other than—

(A) a qualified resident tax,

(B) a qualified nonresident tax, and

(C) a separate tax on income which is not wage and other business income and which is received or accrued by individuals who are domiciled in the State but who are not residents of the State within the meaning of subsection (e)(1).

(4) Taxable years must coincide.—The taxable years of individuals under such tax coincide with taxable years for purposes of the taxes imposed by chapter 1.

(5) Married individuals.—A married individual (within the meaning of section 143)—

(A) who files a joint return for purposes of the taxes imposed by chapter 1 shall not file a separate return for purposes of such State tax, and

(B) who files a separate return for purposes of the taxes imposed by chapter 1, shall not file a joint return for purposes of such State tax.

(6) No double jeopardy under State law.—The laws of such State do not provide criminal or civil sanctions for an act (or omission to act) with respect to a qualified resident tax or qualified nonresident tax other than the criminal or civil sanctions to which an individual is subjected by reason of section 6361.

(7) Partnerships, trusts, subchapter S corporations, and other conduit entities.—Under the State law the tax treatment of—

(A) partnerships and partners,

(B) trusts and their beneficiaries,

(C) estates and their beneficiaries,

(D) electing small business corporations (within the meaning of section 1371(a)) and their shareholders, and

(E) any other entity and the individuals having beneficial interests therein, to the extent that such entity is treated as a conduit for purposes of the taxes imposed by chapter 1,

shall correspond to the tax treatment provided therefor in the case of the taxes imposed by chapter 1.

(8) Members of armed forces.—The relief provided to any member of the Armed Forces of the United States by section 514 of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. sec. 574) is in no way diminished.

(9) Withholding on compensation of employees of railroads, motor carriers, airlines, and water carriers.—There

is no contravention of the provisions of section 26, 226A, or 324 of the Interstate Commerce Act or of section 1112 of the Federal Aviation Act of 1958 with respect to the withholding of compensation to which such sections apply for purposes of the nonresident tax.

SEC. 6363. STATE AGREEMENTS; OTHER PROCEDURES.

(a) STATE AGREEMENT.—If a State elects to enter into an agreement with the United States to have its individual income taxes collected and administered as provided in this subchapter it shall file notice of such election in such manner and with such supporting information as the Secretary or his delegate may prescribe by regulations. The Secretary shall enter into an agreement with such State unless the Secretary notifies the Governor of the State within 90 days after the date of the filing of the notice of the election that the State does not have a qualified State individual income tax (determined without regard to section 6362(f)(1)). The provisions of this subchapter shall apply on and after the date (not earlier than the first January 1 which is more than 6 months after the date of the notice) specified for this purpose in the agreement.

(b) WITHDRAWAL.—

(1) BY NOTIFICATION.—If a State wishes to withdraw from the agreement, it shall notify the Secretary or his delegate of its intention to withdraw in such manner as the Secretary or his delegate may prescribe by regulations. The provisions of this subchapter (other than this section) shall not apply after the date specified for this purpose in the notification. Except as provided in regulations, the date so specified shall not be earlier than the first January 1 which is more than 6 months after the date on which the Secretary or his delegate is so notified.

(2) BY CHANGE IN STATE LAW.—Any change in State law which would (but for this subchapter) have the effect of causing a tax to cease to be a qualified State individual income tax shall be treated as an intention to withdraw from the agreement. Notification by the Secretary to the Governor of such State that the change in State law will be treated as an intention to withdraw shall be made by the Secretary in such manner as the Secretary or his delegate shall by regulations prescribe. Such notification shall have the same effect as a notice under paragraph (1) of an intention to withdraw from the agreement received on the effective date of the change in State law.

(c) TRANSITION YEARS.—

(1) SUBCHAPTER CEASES TO APPLY DURING TAXPAYER'S YEAR.—If the provisions of this subchapter cease to apply on a day other than the last day of the taxpayer's taxable year, then amounts previously paid to the United States on account of the State's qualified individual income tax for that taxable year (whether paid by withholding, estimated tax, credit in lieu of refund, or otherwise) shall be treated as having been paid on account of the State's individual income tax law for that taxable year. Such amounts shall be transferred to the State as though the State had not withdrawn from the agreement. Returns, applications, elections, and other forms previously filed with the Secretary or his delegate for that taxable year, which are thereafter required to be filed with the appropriate State official shall be treated as having been filed with the appropriate State official.

(2) PREVENTION OF UNINTENDED HARDSHIPS OR BENEFITS.—The State may by law provide for the transition to a qualified State

individual income tax or from such a tax to the extent necessary to prevent double taxation or other unintended hardships, or to prevent unintended benefits, under State law.

(3) ADMINISTRATION OF SUBSECTION.—The provisions of this subsection shall be administered by the Secretary or his delegate, by the State, or jointly, to the extent provided in regulations prescribed by the Secretary or his delegate.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—Whenever under this section the Secretary or his delegate determines that a State does not have a qualified State individual income tax, such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located, or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or his delegate. The Secretary or his delegate 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) JURISDICTION OF COURT; REVIEW.—The court shall have jurisdiction to affirm the action of the Secretary or his delegate or to set it aside in whole or in part and to issue such other orders as may be appropriate with regard to taxable years which include any part of the period of litigation. 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.

(3) STAY OF DECISION.—

(A) If judgment on a petition to review a determination under subsection (a) includes a determination that the State has a qualified State individual income tax, then the provisions of this subchapter shall apply on and after the first January 1 which is more than 6 months after the date of the judgment.

(B) If judgment on a petition to review a determination by the Secretary under subsection (b)(2) includes a determination that the State does not have a qualified State individual income tax, then the provisions of this subchapter (other than this section) shall not apply on and after the first January 1 which is more than 6 months after the date of the judgement.

(4) PREFERENCE.—Any judicial proceedings under this section shall be entitled to, and, upon request of the Secretary or the State, shall received a preference and shall be heard and determined as expeditiously as possible.

SEC. 6364. REGULATIONS.

The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter.

SEC. 6365. DEFINITIONS AND SPECIAL RULES.

(a) STATE.—For purposes of this subchapter, the term "State" includes the District of Columbia.

(b) GOVERNOR.—For purposes of this subchapter, the term "Governor" includes the Commissioner of the District of Columbia.

(c) Application of Subchapter.—Whenever this subchapter begins to apply, or ceases to apply, to any State tax on any January 1—

(1) except as provided in paragraph (2), such change shall apply to taxable years beginning on or after such date, and

(2) for purposes of chapter 24, such change shall apply to wages paid on or after such date.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—Procedure in General

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SEC. 6405. REPORTS OF REFUNDS AND CREDITS.

(a) By Treasury to Joint Committee.—No refund or credit of any income, war profits, excess profits, estate, or gift tax in excess of $100,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary or his delegate, is submitted to the Joint Committee on Internal Revenue Taxation.

(b) By Joint Committee to Congress.—A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

(c) Tentative Adjustments.—Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of $100,000, there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary or his delegate shall determine the correct amount of the tax.

(d) Qualified State Individual Income Taxes.—For purposes of this section, a refund or credit made under subchapter E of chapter 64 (relating to Federal collection of qualified State individual income taxes) for a taxable year shall be treated as a portion of a refund or credit of the income tax for that taxable year.

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter B—Assessable Penalties

Sec. 6671. Rules for application of assessable penalties.
Sec. 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
Sec. 6673. Damages assessable for instituting proceedings before the Tax Court merely for delay.
Sec. 6674. Fraudulent statement or failure to furnish statement to employee.

Sec. 6675. Excessive claims with respect to the use of certain fuels or lubricating oil.
Sec. 6676. Failure to supply identifying numbers.
Sec. 6677. Failure to file information returns with respect to certain foreign trusts.
Sec. 6678. Failure to furnish certain statements.
Sec. 6679. Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
Sec. 6680. Failure to file interest equalization tax returns.
Sec. 6681. False equalization tax certificates.
Sec. 6682. False information with respect to withholding allowances based on itemized deductions.
Sec. 6683. Failure of foreign corporation to file return of personal holding company tax.
Sec. 6684. Assessable penalties with respect to liability for tax under chapter 42.
Sec. 6685. Assessable penalties with respect to private foundation annual reports.
Sec. 6686. Failure of DISC to file returns.
Sec. 6687. Failure to supply information with respect to place of residence.

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SEC. 6687. FAILURE TO SUPPLY INFORMATION WITH RESPECT TO PLACE OF RESIDENCE.

(a) Civil Penalty.—If any person fails to include on his return any information required under section 6017A with respect to his place of residence, he shall pay a penalty of $5 for each such failure, unless it is shown that such failure is due to reasonable cause.

(b) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and chapter 42 taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

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CHAPTER 76—JUDICIAL PROCEEDINGS

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Subchapter C—The Tax Court

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PART II—PROCEDURE

Sec 7451 Fee for filing petition.
Sec. 7452. Representation of parties.
Sec. 7453. Rules of practice, procedure, and evidence.
Sec. 7454. Burden of proof in fraud, foundation manager, and transferee cases.
Sec. 7455. Service of process.
Sec. 7456. Administration of oaths and procurement of testimony.
Sec. 7457. Witness fees.
Sec. 7458. Hearings.
Sec. 7459. Reports and decisions.
Sec. 7460. Provisions of special application to divisions.
Sec. 7461. Publicity of proceedings.
Sec. 7462. Publication of reports.
Sec. 7463. Disputes involving [$1,000] *$1,500* or less.
Sec. 7464. Provisions of special application to transferees.

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SEC. 7463. DISPUTES INVOLVING [$1,000] *$1,500* OR LESS.

(a) In General.—In the case of any petition filed with the Tax Court for a redetermination of a deficiency where neither the amount of the deficiency placed in dispute, nor the amount of any claimed overpayment, exceeds—

(1) [$1,000] *$1,500* for any one taxable year, in the case of the taxes imposed by subtitle A and chapter 12, or

(2) [$1,000] *$1,500*, in the case of the tax imposed by chapter 11,

at the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings in the case shall be conducted under this section. Notwithstanding the provision of section 7453, such proceedings shall be conducted in accordance with such rules of evidence, practice, and procedure as the Tax Court may prescribe. A decision, together with a brief summary of the reasons therefor, in any such case shall satisfy the requirements of section 7459(b) and 7460.

(b) Finality of Decisions.—A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any other court and shall not be treated as a precedent for any other case.

(c) Limitation of Jurisdiction.—In any case in which the proceedings are conducted under this section, notwithstanding the provisions of sections 6214(a) and 6512(b), no decision shall be entered redetermining the amount of a deficiency, or determining an overpayment, except with respect to amounts placed in dispute within the limits described in subsection (a) and with respect to amounts conceded by the parties.

(d) Discontinuance of Proceedings.—At any time before a decision entered in a case in which the proceedings are conducted under this section becomes final, the taxpayer or the Secretary or his delegate may request that further proceedings under this section in such case be discontinued. The Tax Court, or the division thereof hearing such case, may, if it finds that (1) there are reasonable grounds for believing that the amount of the deficiency placed in dispute, or the amount of an overpayment, exceeds the applicable jurisdictional amount described in subsection (a), and (2) the amount of such excess is large enough to justify granting such request, discontinue further proceedings in such case under this section. Upon any such discontinuance, proceedings in such case shall be conducted in the same manner as cases to which the provisions of sections 6214(a) and 6512(b) apply.

(e) Amount of Deficiency in Dispute.—For purposes of this section, the amount of any deficiency placed in dispute includes additions to the tax, additional amounts, and penalties imposed by chapter 68, to the extent that the procedures described in subchapter B of chapter 63 apply.

(f) Qualified State Individual Income Taxes.—For purposes of this section, a deficiency placed in dispute or claimed overpayment with regard to a qualified State individual income tax to which subchapter E of chapter 64 applies, for a taxable year, shall be treated as a portion of a deficiency placed in dispute or claimed overpayment of the income tax for that taxable year.

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SOCIAL SECURITY ACT

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

Sec. 1. Appropriation
Sec. 2. State Old-Age and Medical Assistance Plans
Sec. 3. Payment to States
Sec. 4. Operation of State Plans
Sec. 5. Administration
Sec. 6. Definitions

Appropriation

Section 1. For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to aged needy individuals, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, [to furnish rehabilitation and other services] to help individuals referred to in clause (a) or (b) to attain or retain capability for self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), State plans for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged.

State Old-Age and Medical Assistance Plans

Sec. 2. (a) A State plan for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff [, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides,] in the administration of the plan [and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency];

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes assistance for or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) if the State plan includes old-age assistance—

(A) provide that the State agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (i) the State agency may disregard not more than $7.50 per month of any income and (ii) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder; *and*

(B) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of such assistance; and

[(C) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of such assistance to help them attain self-care, includiny a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and]

(11) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom;

(D) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of such assistance; and

(E) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(12) if the State plan includes assistance to or in behalf of individuals who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients who would otherwise need care in such institutions, including appropriate medical treatment and other assistance; [for services referred to in section 3(a)(4)(A)(i) and (ii) which are appropriate for such recipients and for such patients;] and for methods of administration necessary to assure that the responsibilities of the State agency under the

State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(13) if the State plan includes assistance to or in behalf of patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for old-age assistance excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

(c) Nothing in this title shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this title.

Payment to States

Sec. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) the Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum

of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of old-age assistance for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 6(c)) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State [whose State plan approved under section 2 meets the requirements of subsection (c)(1)], an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for[—

[(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

[(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

[(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

[(iv)] the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A) (as are for services provided in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus]

[(C)] *(B)* one-half of the remainder of such expenditures. [The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the politi-

cal subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act, are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (d) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(5) in the case of any State whose State plan approved under section 2 does not meet the requirements of subsection (c) (1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.]

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected

to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare, for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amounts so certified.

[(c) (1) In order for a State to qualify for payments under paragraph (4) of subsection (a), its State plan approved under section 2 must provide that the State agency shall make available to applicants for recipients of old-age assistance under such State plan at least those services to help them attain or retain capability for self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (5) of such subsection.]

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to patients in institutions for mental diseases shall be paid only to the extent that the State make a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

Operation of State Plans

Sec. 4. In the case of any State plan which has been approved under this title by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2(a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Administration

Sec. 5. [Executed. Authorized appropriation for administrative expenses of the Social Security Board under this title for the fiscal year ending June 30, 1936.]

Definitions

Sec. 6. (a) For the purposes of this title, the term "old-age assistance" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for assistance) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are sixty-five years of age or older, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution). Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 2 includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such assistance through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of old-age assistance to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

(b) For purposes of this title, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals sixty-five years of age or older who are not recipients of old-age assistance (except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month) but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;
(2) skilled nursing-home services;
(3) physicians' services;
(4) outpatient hospital or clinic services;
(5) home health care services;
(6) private duty nursing services;
(7) physical therapy and related services;
(8) dental services;
(9) laboratory and X-ray services;
(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;
(11) diagnostic, screening, and preventive services; and
(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).

(c) For purposes of this title, the term "Federal medical percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska and Hawaii; except that (i) the Federal medical percentage shall in no case be less than 50 per centum or more than 80 per centum, and (ii) the Federal medical percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1101(a)(8) (other than the proviso at the end thereof); except that the Secretary shall, as soon as possible after enactment of the Social Security Amendments of 1960, determine and promulgate the Federal medical percentage for each State—

(1) for the period beginning October 1, 1960, and ending with the close of June 30, 1961, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1101(a)(8)) for such State for the fiscal year ending June 30, 1961 (which promulgation of the Federal medical percentage shall be conclusive for such period), and

(2) for the period beginning July 1, 1961, and ending with the close of June 30, 1963, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1101(a)(8)) for such State for such period (which promulgation of the Federal medical percentage shall be conclusive for such period).

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TITLE IV.—GRANTS TO STATES FOR AID [AND SERVICES] TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD WELFARE SERVICES

Part A—Aid to Families With Dependent Children

Sec. 401. Appropriation
Sec. 402. State Plans for Aid [and Services] to Needy Families With Children
Sec. 403. Payment to States
Sec. 404. Operation of State Plans
Sec. 405. Use of Payments for Benefit of Child
Sec. 406. Definitions
Sec. 407. Dependent Children of Unemployed Fathers
Sec. 408. Federal Payments for Foster Home Care of Dependent Children
Sec. 409. Community Work and Training Programs
Sec. 410. Assistance by Internal Revenue Service in Locating Parents

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

Appropriation

Section 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance [and rehabilitation and other services], as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid [and services] to needy families with children.

State Plans for Aid [and Services] to Needy Families with Children

Sec. 402. (a) A State plan for aid [and services] to needy families with children must

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff [, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community services aides,] in the administration of the plan [and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency]; and

(6) provide that the State agency will make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income;

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b) (2) and (3); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income; except that, with

respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to families with dependent children;

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals;

(11) effective July 1, 1952, provide for prompt notice to appropriate law-enforcement officials of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a parent;

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

[(13) provide a description of the services which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;]

(14) provide for the development and application of a program for, such [family] *child care* services, as defined in section 406(d), *family planning services*, and child welfare services [, as defined in section 425] *available under the State plan approved under part B*, for each child and relative who receives aid to families with dependent children and each appropriate individual (living in the same home as a relative and child receiving such aid whose needs are taken into

account in making the determination under clause (7)), as may be necessary in the light of the particular home conditions and other needs of such child, relative, and individuals, in order to assist such child, relative, and individuals to attain or retain capability for self-support and care and in order to maintain and strengthen family life and to foster child development;

(15) provide—

(A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan, and each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases family planning services are offered to them, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and

(B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishing of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17) provide—

(A) for the development and implementation of a program under which the State agency will undertake—

(i) in the case of a child born out of wedlock who is receiving aid to families with dependent children to establish the paternity of such child and secure support for him, and

(ii) in the case of any child receiving such aid who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

(B) for the establishment of a single organizational unit in the State agency or local agency administering the State plan in each political subdivision which will be responsible for the administration of the program referred to in clause (A);

(18) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the State agency in administering the program referred to in clause (17)(A), including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such

courts or officials and the State agency or local agency administering the State plan;

(19) provide—

(A) that every individual, as a condition of eligibility for and under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; or

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph);

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434, and income derived from a special work project under the program established by section 432(b)(3) shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) or (3) shall be taken into account;

(E) [Repealed.]

(F) that if and for so long as any child, relative or individual (certified to the Secretary of Labor pursuant to subparagraph (G) has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work

incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7);

except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b)(2) (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A), in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under part C, (iii) will participate in the develop-

ment of operational and employability plans under section 433 (b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

(21) provide that the State agency will report to the Secretary, at such times (not less often than once each calendar quarter) and in such manner as the Secretary may prescribe—

(A) the name, and social security account number, if known, of each parent of a dependent child or children with respect to whom aid is being provided under the State plan—

(i) against whom an order for the support and maintenance of such child or children has been issued by a court of competent jurisdiction but who is not making payments in compliance or partial compliance with such order, or against whom a petition for such an order has been filed in a court having jurisdiction to receive such petition, and

(ii) whom it has been unable to locate after requesting and utilizing information included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205,

(B) the last known address of such parent and any information it has with respect to the date on which such parent could last be located at such address, and

(C) such other information as the Secretary may specify to assist in carrying out the provisions of section 410;

(22) provide that the State agency will, in accordance with standards prescribed by the Secretary, cooperate with the State agency administering or supervising the administration of the plan of another State under this part—

(A) in locating a parent residing in such State (whether or not permanently) against whom a petition has been filed in a court of competent jurisdiction of such other State for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State; and

(B) in securing compliance or good faith partial compliance by a parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State; and

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for (aid to families

with dependent children) a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall (subject to subsection (d)) pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100

multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) *subject to subsection (e)*, 75 pe rcentum of so much of such expenditures as are for—

(i) [any of the services described in clauses (14) and (15) of section 402(a)] *child care services as defined in section 406(d) and family planing services* which are provided to any child or relative who is receiving aid under the plan, or to any other individual (living in the same home as such relative and child) whose needs are taken into account in making the determination under clause (7) of such section.

(ii) [any of the services described in clauses (14) and (15) of 402(a)] *child care services as defined in section 406(d) and family planning services* which are provided to any child or relative who is applying for aid to families with dependent children or who, within such period or periods as the Secretary may prescribe, has been or is likely to become an applicant for or recipient of such aid.

(iii) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) one-half of the remainder of such expenditures.

The services referred to in subparagraph (A) shall include only—

(C) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision [: *Provided*, That no funds authorized under this part shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to

agreement under subparagraph (D), if provided by such staff], and

(D) [subject to limitations] *under conditions* prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, [by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or] by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contact with public (local) or nonprofit private agencies;

[except that services described in clause (ii) of subparagraph (C) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved;] and except that, to the extent specified by the Secretary, [child welfare services.] *child care services (as defined in section 406(d)) and* family planning services [, and family services] may be provided from sources other than those referred to in subparagraphs (C) and (D). The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) applies shall be determined in accordance with such methods and procedures as may be permitted by the Secretary.

[(4) Repealed]

(5) in the case of any State an amount equal to [the sum of—]

[(A)] 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children [in the form of payments or care specified in paragraph (1) of section 406(e), and

[(B) 75 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children in the form of services specified in paragraph (1) of section 406(e)].

The number of individuals with respect to whom payments described in section 406(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 10 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 10 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F).

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of

subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Not withstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under part C, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) [Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to] *In addition to amounts paid under subsection (a)(3)(A), the Secretary shall pay to each State with a plan approved under this part an amount equal to 90 per centum of the total amounts expended during any quarter as are found necessary for the proper and efficient administration of the plan and as are for* social and supportive services provided pursuant to section 402(a)(19)(G).

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

(e) Notwithstanding subsection (a)(3)(A)(i) and (ii), the amount of the payment made thereunder to any State for any quarter shall not exceed 12½ per centum of the total of such amounts paid thereunder for such quarter to all the States.

Operation of State Plans

Sec. 404. (a) In the case of any State plan for aid [and services] to needy families with children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or (2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402(a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) No payment to which a State is otherwise entitled under this title for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

Use of Payments for Benefit of Child

Sec. 405. Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefor of protective payments as provided under section 406(b)(2), or in

seeking appointment of a guardian or legal representative as provided in section 1111, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 404 and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

Definitions

Sec. 406. When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedical care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 407), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 402(a)(1) which do not meet the preceding requirements of this subsection but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual,

but only with respect to a State whose State plan approval under section 402 includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 408(a); and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

(d) [The term "family services" means services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence.] *The term "child care services" means services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (1) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (2) because of the death, continued absence from the home, or incapacity of such child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child.*

(e) (1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age 21 who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a) (1) in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the pay-

ments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary; but only with respect to a State whose State plan approved under section 402 includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

Dependent Children of Unemployed Fathers

Sec. 407. (a) The term "dependent child" shall, notwithstanding section 406(a), include a needy child who meets the requirements of section 406(a)(2), who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 406(a)(1) in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) The provisions of subsection (a) shall be applicable to a State if the State's plan approved under section 402—

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) when—

(A) such child's father has not been employed (as determined in accordance with the standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

(C)(i) such father has 6 or more quarters of work (as defined in subsection (d)(1)) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d)(3)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) will be certified to the Secretary of Labor as provided in sec-

tion 402(a) (19) within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained; and

(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

(i) if, and for so long as, such child's father is not currently registered with the public employment offices in the State, and

(ii) with respect to any week for which such child's father receives unemployment compensation under an unemployment compensation law of a State or of the United States.

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a), (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b)(1), or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subparagraph (A) of subsection (b)(2), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 402(a) (19).

(d) For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 213(a)(2)), or in which such individual participated in a community work and training program under section 409 or any other work and training program subject to the limitations in section 409, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.

Federal Payments for Foster Home Care of Dependent Children

Sec. 408. Effective for the period beginning May 1, 1961—

(a) The term "dependent child" shall, notwithstanding section 406 (a), also include a child (1) who would meet the requirements of such section 406(a) or of section 407, except for his removal after April 30, 1961, from the home of a relative (specified in such section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 402, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f) (1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 402, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B) (i) would have received such aid in or for such month if application had been made therefor, or (ii) in the case of a child who had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor;

(b) the term "aid to families with dependent children" shall notwithstanding section 406(b), include also "foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of a foster care in the foster family home of an individual;

(c) the number of individuals counted under clause (A) of section 403(a) (1) for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f) (2) of this section shall be considered as part of the administration of the State plan for purposes of section 403(a) (3);

but only with respect to a State whose State plan approved under section 402—

(e) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 406(a), and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency referred to in section 522(a) (relating to allotments to States for child welfare services under part 3 of title V) or of any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For the purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and the term "child-care institution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing.

Community Work and Training Programs

Sec. 409. (a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 406(a), with whom he is living) under a State plan approved under section 402 shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects, which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment officers in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 401.

(b) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, the proper and efficient administration of the State plan, for purposes of section 403(a) (3) and (4) may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

Assistance by Internal Revenue Service in Locating Parents

Sec. 410. (a) Upon receiving a report from a State agency made pursuant to section 402(a)(21), the Secretary shall furnish to the Secretary of the Treasury or his delegate the names and social security account numbers of the parents contained in such report, and the name of the State agency which submitted such report. The Secretary of the Treasury or his delegate shall endeavor to ascertain the address of each such parent from the master files of the Internal Revenue Service, and shall furnish any address so ascertained to the State agency which submitted such report.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a). The Secretary shall transfer to the Secretary of the Treasury from time to time sufficient amounts out of the monies appropriated pursuant to this subsection to enable him to perform his functions under subsection (a).

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TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

Sec. 1001. Appropriation
Sec. 1002. State Plans for Aid to the Blind
Sec. 1003. Payment to States
Sec. 1004. Operation of State Plans
Sec. 1005. Appropriation for Administration
Sec. 1006. Definition of "Aid to the Blind"

Appropriation

Section 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind and of encouraging each State, as far as practicable under such conditions, [to furnish rehabilitation and other services] to help such individuals attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the blind.

State Plans for Aid to the Blind

Sec. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff[, with particular emphasis on the full-time or part-time employment of recipients and other persons of low-income, as community service aides,] in the administration of the plan [and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency]; (6) provide that the State agency will make such reports, in

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such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act or aid to families with dependent children under the State plan approved under section 402 of this Act; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency (A) shall disregard the first $85 per month of earned income, plus one-half of earned income in excess of $85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and (C) may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than $7.50 of any income; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind; (10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; *and* (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions[; and (13) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services].

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

In the case of any State (other than Puerto Rico and the Virgin Islands) which did not have on January 1, 1949, a State plan for aid

to the blind approved under this title, the Secretary shall approve a plan of such State for aid to the blind for purposes of this title, even though it does not meet the requirements of clause (8) of subsection (a) of this section, if it meets all other requirements of this title for an approved plan for aid to the blind; but payments under section 1003 shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1003 under a plan approved under this section without regard to the provisions of this sentence.

Payments to States

Sec. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care) ; plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month, as exceeds the product of $75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month; and

(3) in the case of any State [whose State plan approved under section 1002 meets the requirements of subsection (c)(1)], an amount equal to the sum of the following proportions of the total

amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for[—

[(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

[(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

[(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services, specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the blind, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

[(iv)] the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus]

[(C)] *(B)* one-half of the remainder of such expenditures. [The services referred to in subparagraph (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably avail-

able to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(4) in the case of any State whose State plan approved under section 1002 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.]

(b) The method computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan; except that such increases or reduc-

tions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amounts so certified.

[(c) (1) In order for a State to qualify for payments under paragraph (3) of subsection (a), its State plan approved under section 1002 must provide that the State agency shall make available to applicants for or recipients of aid to the blind at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearings to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (4) of such subsection.]

Operation of State Plans

Sec. 1004. In the case of any State plan for aid to the blind which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002(a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected

by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Administration

Sec. 1005. Executed. Authorized appropriation for administrative expenses of the Social Security Board for the fiscal year ending June 30, 1936.

Definition

Sec. 1006. For the purpose of this title, the term "aid to the blind" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1002 includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the blind to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

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TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

Sec. 1401. Appropriation
Sec. 1402. State Plans for Aid to the Permanently and Totally Disabled
Sec. 1403. Payments to States
Sec. 1404. Operation of State Plans
Sec. 1405. Definition of Aid to the Permanently and Totally Disabled

Appropriation

Section 1401. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the condition in such State, to needy individuals eighteen years of age and older who are permanently and totally disabled and of encouraging each State, as far as practicable under such conditions, [to furnish rehabilitation and other services] to help such individuals attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the permanently and totally disabled.

State Plans for Aid to the Permanently and Totally Disabled

Sec. 1402. (a) A State plan for aid to the permanently and totally disabled must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness; (5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff [, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides,] in the administration of the plan [and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting

any advisory committees established by the State agency]; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act, aid to families with dependent children under the State plan approved under section 402 of this Act, or aid to the blind under the State plan approved under section 1002 of this Act; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (A) the State agency may disregard not more than $7.50 of any income, (B) of the first $80 per month of additional income which is earned the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the permanently and totally disabled; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; *and* (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions [; and (12) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services].

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) Any citizenship requirement which excludes any citizen of the United States.

Payments to States

Sec. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $3.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such months; and

(3) in the case of any State [whose State plan approved under section 1402 meets the requirements of subsection (c)(1)], an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for[—

[(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability of self-support or self-care, or

[(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

[(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the permantly and totally disabled, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

[(iv)] the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely become applicants for or recipients of such aid; plus

[C] (*B*) one-half of the remainder of such expenditures.

[The services referred to in subparagraphs (A) and (B) shall except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act, (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for

vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(4) in the case of any State whose State plan approved under section 1402 does not meet the requirement of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.]

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the differences is expected to be derived, (B) records showing the number of permanently and totally disabled individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the

amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, paid to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

[(c) (1) In order for a State to qualify for payments under paragraph (3) of subsection (a), its State plan approved under section 1402 must provide that the State agency shall make available to applicants for or recipients of aid to the permanently and totally disabled at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (4) of such subsection.]

Operation of State Plans

Sec. 1404. In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirements prohibited by section 1402(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1402 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by

such failure) until he is satisfied that such prohibited requirement is no longer so imposed and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Definition

Sec. 1405. For the purposes of this title, the term "aid to the permanently and totally disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1402 includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the permanently and totally disabled to be paid (and in conjunction with other income and resources), meet all the needs of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

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TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

Sec. 1601. Appropriation
Sec. 1602. State Plans for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged
Sec. 1603. Payments to States
Sec. 1604. Operation of State Plans
Sec. 1605 Definitions

Appropriation

Section 1601. For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State [to furnish rehabilitation and other services] to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged.

State Plans for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged

Sec. 1602. (a) A State plan for aid to the aged, blind, or disabled and medical assistance for the aged, must—

(1) provide that it shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance

with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff[, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides,] in the administration of the plan [and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency];

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

[(10) provide a description of the services (if any) which the State agency makes available to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;]

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under title I or aid under the State plan approved under part A of title IV or under title X or XIV;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first $85 per month of earned income plus one-

half of earned income in excess of $85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first $80 per month of earned income, the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first $80 per month of earned income the State agency may disregard not more than the first $20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than $7.50 of any income;

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan;

(16) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

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(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution;

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; [for services referred to in section 1603(a) (4) (A) (i) and (ii) which are appropriate for such recipients and for such patients;] and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out; and

(D) provide methods of determining the reasonable cost of institutional care for such patients; and

(17) if the State plan includes aid or assistance to or in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases;

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this title, the State agency which administered or supervised the administration of the plan of such State approved under title X was different from the State agency which administered or supervised the administration of the plan of such State approved under title I and the State agency which administered or supervised the administration of the plan of such State approved under title XIV, the State agency which administered or supervised the administration of such plan approved under title X may be designated to administer or supervise the administration of the portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals and a separate

State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1002(b) following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this title, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this title, even though it does not meet the requirements of paragraph (14) of subsection (a) if it meets all other requirements of this title for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1603 shall be made, in the case any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1603 under a plan approved under this section without regard to the provisions of this sentence.

(c) Subject to the last sentence of subsection (a), nothing in this title shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this title.

Payments to States

Sec. 1603. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter to the aged, blind, or disabled under the State plan (including expenditures for premiums under Part B of title

XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i) (I) The Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so such of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of

title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 61(c)) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State [whose State plan approved under section 1602 meets the requirements of subsection (c)(1)], an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for[—

[(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

[(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

[(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan if such services are requested

by such individuals and are provided to such individuals in accordance with the next sentence, or

[(iv)] the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

[(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance; plus

[(C)] *(B)* one-half of the remainder of such expenditures. [The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

[(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision; *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

[(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

[except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

[(5) in the case of any State whose State plan approved under section 1602 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.]

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

[(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a), its State plan approved under section 1602 must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

[(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervising the administration of such plan, that—

[(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

[(B) in the administration of the plan there is a failure to comply substantially with such provision,

[the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection

(a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (5) of such subsection.]

(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

Operation of State Plans

Sec. 1604. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1602; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Definitions

Sec. 1605. (a) For purposes of this title, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of

remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1602 includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justify such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made.

(b) For purposes of this title, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled except, for any month, for recipients of aid to the aged, blind, or disabled who are admitted to or dis-

charged from a medical institution during such month but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services;

(2) skilled nursing-home services;

(3) physicians' services;

(4) outpatient hospital or clinic services;

(5) home health care services;

(6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventive services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution).

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VIII. ADDITIONAL VIEWS OF MR. RIBICOFF

DISTRIBUTION OF FUNDS TO THE STATES

I support the basic concept of revenue sharing.

Many of our State and local governments are faced with a growing fiscal crisis as the demand for governmental services outpaces their ability to raise revenues. The federal categorical grant programs designed to aid State and local governments have failed to alleviate the problems they were supposed to solve and in some instances aggravated them. Therefore it is time to return some of the money this nation's citizens send each year to Washington back to their own State and local governments with few strings attached.

How this money will be distributed to the States and localities is the critical element in the consideration of revenue sharing legislation and the issue which demands the Senate's most careful scrutiny.

Unfortunately, the formula approved by the Senate Finance Committee for determining the distribution of the first $5.3 billion authorized by this bill is unresponsive to national priorities and unfair to millions of Americans. It should be changed by the full Senate.

The rejuvenation of our deteriorating cities was one of the prime considerations in the development of revenue sharing legislation. The Committee has given this problem limited recognition by basing the distribution of the additional $1 billion it has authorized for the revenue sharing fund on each State's urbanized population. Yet even with this additional $1 billion, the urban States receive less than their fair share. And there is no guarantee that this new provision will survive conference.

To distribute the original $5.3 billion, the Committee developed a formula using several factors: State population, State per capita income (the lower the per capita income, the higher the index) and tax effort (State and local tax collections as a percentage of total personal income in the State). It should not, however, have limited the formula to these factors alone.

Urbanized population and a State's relative contribution of federal individual income taxes to the Federal Treasury should also be made part of this formula before any final determination is made.

By adding an urbanization factor, we would give greater recognition to the fact that urbanized States as a whole—not just their large cities—have the most serious financial problems. Their total State and local costs and taxes are higher and the demand for governmental services at all levels is greater than elsewhere in the nation.

By using the individual federal income tax payments of the citizens of each State as the final factor, we would recognize that revenue sharing is essentially a method of returning to the States and local governments a proportional share of the money their citizens sent to the national Treasury.

Under the Committee's approach, the citizens of Connecticut, New York, California and other urban States are paying for the funds allotted to Mississippi, Alabama and other rural States. The revenue being shared is coming from the pockets of the already overburdened urban citizens and going into the pockets of rural residents who face much lower costs and taxes.

It is admittedly difficult, if not impossible, to devise a formula which would give each State the maximum amount its representatives believe it deserves. It is, nevertheless, possible to construct a formula which all Senators and Congressmen could agree is fair—fair to their own States and fair to all Americans.

I am therefore hopeful that the full Senate will consider the national interest, reject the Committee's formula for distributing the $5.3 billion and approve one which will be truly responsive to the needs this legislation was meant to address.

DAVIS-BACON ACT

The decision of the Finance Committee to delete Sec. 105 (a) (6) of the House bill, the Davis-Bacon provision, was completely unjustified.

It has long been accepted practice to require localities employing laborers and mechanics for construction financed in whole or in part out of federal funds to pay wages at rates not less than those prevailing on similar projects in the immediate area.

No valid reason exists for changing this policy now and the Committee's action should be reversed.

ABRAHAM RIBICOFF.

IX. MINORITY VIEWS OF SENATOR HARRY F. BYRD, JR.

I have given a great deal of thought during the past several months to The Revenue Sharing Act. I have kept an open mind.

This proposal, H.R. 14370, has been endorsed by President Nixon and has the support of most, if not all, of the governors of the 50 states and most of the mayors throughout the nation.

Under its provisions, the federal government, over a five-year period, would distribute $30 billion in additional federal funds to the 50 states and to 39,000 units of local government. Distribution in the current fiscal year would total $8.1 billion. (This is separate and apart from the supplementary grants of $1 billion a year.)

This, of course, would be helpful to state and local governments. The governors and mayors have told the Congress that they need additional assistance over and above the vast sums which already are being returned to the states in a multitude of federal programs. The legislation assumes all states and localities have a fiscal crisis common in nature and magnitude with which they are equally unable to cope.

I realize it would be more popular to support than to oppose The Revenue Sharing Act.

But in considering this matter there are at least three issues of major concern. The first and foremost is this: Where is the revenue to share?

The federal funds deficit for fiscal year 1971 was $30 billion; for fiscal year 1972, the deficit was $29 billion; the administration estimates that the deficit for the current fiscal year will be at least $38 billion.

So in three fiscal years the federal funds deficit will near or exceed $100 billion.

This means that more than 20 percent of the total national debt will have been incurred during this three-year period.

Never before in any other three-year period in the history of the American Government have there been such deficits, except during World War II, when we were fighting in both Europe and the Pacific and when we had 12 million Americans under arms.

When 12 of the nation's governors testified before the Senate Finance Committee, I made this assertion: No state in the Union is in as bad shape financially as is the federal government. No governor disputed this statement.

The annual interest on the national debt is $22.7 billion.

Of every personal and corporate income tax dollar paid into the federal Treasury, 17 cents goes to pay the interest charges.

As I view it, the dominant domestic problem facing our nation is the desperately bad condition of our federal finances. As a result of increased deficit spending, the purchasing power of the American dollar has declined. Deficit spending by the federal government is the major cause of inflation, which is a hidden tax on the earnings of the working people.

What the Congress is considering in the revenue sharing legislation, is an additional program—over and above the present programs—with an average cost of approximately $6 billion per year for each of 5 years, beginning now. In addition, there is the $1 billion a year cost of the supplementary grant program.

The second issue of major concern is the division of public accountability. State and local governmental units would expend public funds which they have no responsibility for raising.

Under the House-passed legislation, 40 percent of the funds will be distributed to five states—New York, California, Illinois, Michigan and Pennsylvania.[1] These states have gone into expensive programs which they find difficult to maintain. Now they are seeking assistance from the federal government.

Is it wise to separate the responsibility for collecting taxes from the authority to spend revenues? The 50 states and the 39,000 localities dispensing tax funds will be relieved of the obligation to weigh carefully the benefits of increased public expenditures against the burdens imposed on their community through increased taxation.

The third area of major concern is that the House-passed legislation seeks to dictate to the states the tax structure each state should have. It also requires each local government, as a condition of receiving funds under the bill, to obtain approval from the Secretary of the Treasury as to its wage rates on construction financed in whole or in part by revenue sharing funds. Thus, from its inception, this new revenue sharing program incorporates dictation from the Congress to the states and to the localities, even though the Finance Committee has removed this provision from its bill.

Through the years, federal grants-in-aid and shared revenues to the various states have increased tremendously.

To give a dramatic example of just how far out of hand some of these federal programs have gotten, I cite the following:

A few years ago, legislation was enacted providing 75 percent Federal financing of "social services." The States have discovered that, by expanding or changing programs that they were already paying for themselves, they can collect from Washington 75 cents out of every dollar spent.

When this proposal was enacted, it was estimated by its sponsor and by H.E.W. that it would cost the Federal Government $40 million annually. It has soared to such an extent that the cost for the current fiscal year is now estimated to be $4.7 billion—more than 100 times the original estimate.

In the first year of this program, New York State received $57 million in matching grants. This year, New York is asking for $850 million in Federal matching grants for this one program.

The State of Mississippi, which 2 years ago applied for $1 million of Federal funds to finance "social services," this year is asking for $464 million—about the size of the state's entire budget last year.

If the revenue-sharing proposal now under consideration were being recommended as a replacement for other, less flexible programs, I would greatly prefer the flexibility of the new program.

[1] Under the Finance Committee proposal 35 percent will go to the above 5 states.

But the legislation now under consideration is in addition to all of the other programs.

The federal government obtains its funds from the same sources as do state and local governments, from working men and women. Costly federal programs must be paid for by more taxes, or by more inflation, or both.

I feel I cannot vote for costly new programs at a time of unreasonably high deficit spending.

Last November, I felt compelled to take another unpopular stand, namely in opposition to a tax reduction which lowered revenues at a time of large federal deficits.

Similarly, this year, I must vote against the revenue sharing proposal, which calls for a large increase in federal spending.

HARRY F. BYRD, Jr.