CONGRESSIONAL RECORD — SENATE  

September 21, 1972

signed by the Speaker of the House of Representatives:

S. 1361. An act to credit certain service retirement pay to certain veterans who served as teachers for purposes of civil service retirement.

S. 2478. An act to provide for the disposition of funds in connection with a judgment in favor of the Shoehote-Bannock Tribes of Idaho, as representative of the Me-Kamille Indian Claims, from the S. 2478. An act for the relief of William John West.

H. R. 2155. An act to declare that certain federally owned land is held by the United States in trust for the benefit of the Cadiz Band of the Miwok Tribe of Indians of the Fort Hall Reservation, Idaho, as representative of the Me-Kamille Indian Claims.

H. R. 10430. An act to provide with respect to the inheritance of interests in restricted land within the Nesc Perce Indian Reservation, and for other purposes.

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

ORDER FOR STAR PF 77

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that a star print be ordered on report No. 22-1155 on the following documents: Star Print as the Surface Transportation Act of 1971, in order to correct certain errors appearing in the original printing of the report.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

By Mr. MONDALE:
S. 4013. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medical programs—and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program—shall have the right to receive, instead of cash aid or assistance reduced because of increases in monthly social security benefits. Referred to the Committee on Finance.

By Mr. GUNNERY (for himself and Mr. BURCH): S. 4014. A bill to amend the antitrust laws of the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:
S. 4015. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina; and for other purposes. Referred to the Committee of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina. Referred to the Committee on Interior and Insular Affairs.

By Mr. PELL:
S. 4017. A bill to establish a Regional Railroad Rights of Way Authority. Referred to the Committee on Interior and Insular Affairs.

By Mr. RANDOLPH, from the Committee on Public Works:
S. 4019. An act to authorize the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Ordered to be placed on the calendar.

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

Mr. SCOTT. Mr. President, I am today introducing legislation to eliminate several unfair practices which have developed subsequent to the enactment of certain amendments in 1965 to the Immigration and Nationality Act. My bill would provide for additional special immigrant visas, on an annual basis, to each country of the Eastern Hemisphere, to an amount no less than the backlog in the visa quota category—brothers and sisters of U.S. citizens.

Very simply, the old system for selecting immigrants to the United States was based on a national origins quota concept. Legislation passed by the Congress replaced that system with an overall ceiling on Eastern Hemisphere immigration on a first-come, first-served basis, with certain exceptions. However, during the phaseout period of the old system, the backlogs in some oversubscribed preference categories were reduced. Immigration from the former high quota countries was adversely affected. Immigration, particularly from Ireland, was cut back severely while the "brothers and sisters" backlog, particularly from Italy, was reduced by a very small amount.

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

A second purpose of the bill is to reduce the backlog in the "brothers and sisters" preference. The old national system provided disproportionate national quotas, to govern the admission of immigrants, without regard to the reestablishment of families. In the transition to the new system, some countries, particularly Ireland and Italy, which were adversely affected. I am hopeful that this new legislation will move us closer to that goal.

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

SPECIAL SECURITY PASS THROUGH

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

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

Let me read parts of two letters I have received from Minnesota concerning this problem:

One poverty stricken widow wrote to me saying that—

The Minneapolis Housing Authority is raising my rent as a result of my increased social security. This is driving me and my food stamps also. The way I figure it, I would be better off without the raise.

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

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

My husband is a cripple from arthritis and 70. We are two people that just don't have in our Old Age checks. Taking away Old Age helps. What can be done

These are typical letters. Recipients of old age assistance and aid to the blind and disabled, those with veterans' pensions, people receiving food stamps, those medically indigent and many people in public housing are finding that...
percent social security increase will mean a reduction or even a loss of these other benefits.

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

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

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

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

These rental increases can be avoided, not only for social security beneficiaries, but for all other public housing tenants as well. If the President will simply relegate $10 million for public housing operating subsidies funds which have already been appropriated by the Congress. I have recently written to the President, urging him to release these funds.

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

The bill I am introducing today is a bill which my colleagues from Minnesota, Connecticut, and Kentucky have already introduced in the House. It will correct the serious injustices which I have mentioned and it will also focus attention on the uncontrived problem—our failure to act as a unified program.

I ask unanimous consent that the bill be printed in the Record at this point.

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

S. 4013

Be it enacted by the Senate and House ofRepresentatives of the United States of America, in Congress assembled, That (a) section 2(a)(10)(A) of the Social Security Act is amended by inserting "(2)", immediately after "(1)", by striking out "(2)" and inserting in its place "(2)", and by inserting immediately before the semicolon at the end thereof the following: "", and (I) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act.

(b) Section 402(a)(8)(A) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: "", and (D) shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act.

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

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

(e) Section 1602(a)(8)(B) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: "", and (D) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act.

(f) Section 2002(a)(14)(A) of such Act is amended by striking out "and" at the end of subparagraph (C), by striking out the semicolon at the end of subparagraph (D) and inserting in its place "", by striking out "", and (I) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act.

(g) Section 402(a)(8)(B) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: "", and (I) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act.
Sec. 8. Section 2 of that Act (15 U.S.C. 29; 49 U.S.C. 45) is amended to read as follows:

"(a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States in which a violation of section 18 of the Antitrust Act, 15 U.S.C. 26, to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1914, and that has been or is being enjoined by a court of competent jurisdiction, that has been or may hereafter be enjoined, in which the United States is the complainant or equitable relief is sought, any appeal from any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code.

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

"(1) upon application of a party filed within 10 days following the filing of any proposed consent judgment, such judgment may not be entered by the district court unless the district court certifies that the requirements of section 1292(b) have been fulfilled and that such filing is a true and complete description of such proposed consent judgment; or

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

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

A court order pursuant to (1) or (2) or a certificate pursuant to (3) must be filed within fifteen days after the filing of a notice of appeal. When such an order or certificate is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. That Court shall thereupon either (1) dispose of the appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the district court for such further proceedings as it may determine.

**Penalties**

Sec. 9. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1914 (26 Stat. 200; 15 U.S.C. 1, 2, and 3) are each amended by striking out the words "fines of not more than five thousand dollars" and inserting "fines of not more than one hundred thousand dollars."

**Executive Act Revisions**

Sec. 4. This Act is effective as of February 11, 1903 (32 Stat. 632), as amended (15 U.S.C. 28; 49 U.S.C. 44), commonly known as the Expediting Act, is amended as follows:

"(1) A district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1914, or any other Act having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that in his opinion, circumstances are such as to require the taking of such action. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the appeal of the district court, if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

**Advisory Procedures and Penalties**

Sec. 5. The Act may be cited as "The Antitrust Procedures and Penalties Act."

Sec. 6. Clause (d) of the Senate Resolution Preceded (170)
Section 2 adds a series of new subsections to Section 5 of the Clayton Act (15 U.S.C. 15c) to establish procedures governing the filing and entry of a consent judgment settling a civil antitrust suit by the United States. These new provisions replace the filing provisions of Section 5 of the Clayton Act.

SUBSECTION (A)—PUBLIC IMPACT STATEMENT

This subsection provides that any consent decree proposed by the United States must be filed with the court in which the case is pending and simultaneously published in the Federal Register at least 30 days prior to the entry of the consent decree. In addition, the government must file a "public impact statement" containing the following:

1. The nature and purpose of the proceeding;
2. A description of the practices or events giving rise to the alleged violation of the antitrust laws;
3. An explanation of the proposed judgment, the relief to be obtained thereby, and the anticipated effect on the defendant and an explanation of any special circumstances giving rise to the proposed judgment or any provision contained therein;
4. The dollar value to plaintiffs and anyone else injured by the alleged violation in the event that the judgment is entered;
5. A description of the procedures available for modification of the judgment; and
6. A description and evaluation of alternatives to the proposed judgment and the anticipated effect on competition of such alternatives.

The public impact statement required by this subsection is analogous to the environmental impact statement presently required from governmental agencies by the National Environmental Policy Act (16 U.S.C. 520). This subsection also provides that the sixty day period may be shortened by order of court but only upon showing that extraordinary circumstances require a shorter time period.

An additional requirement contained in this subsection is that a filing by the Justice Department of a formal response to comments submitted to it pursuant to this provision. This requirement is designed to give some assurance that public comments will in fact be considered by the Department when received; and, secondly, to provide additional data to the court so that it may make its decision whether to enter the decree.

SUBSECTION (B)—ENTRY OF THE DECREES

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

The mandate is phrased first in general terms: Before entering any consent judgment, the court shall determine that the judgment is in the public interest. In addition, however, and as an aid to the court in making its independent judgment, the court shall determine that the consent judgment is in the public interest.

For example, the court may consider whether the consent judgment provides for the elimination of a significant portion of antitrust violations, whether the consent judgment involves the elimination of significant antitrust violations, and whether the consent judgment is in the public interest.

In addition, the court may consider whether the consent judgment provides for the elimination of significant antitrust violations, whether the consent judgment involves the elimination of significant antitrust violations, and whether the consent judgment is in the public interest.

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

SUBSECTION (C)—PRIMA FACIE EFFECT

A final provision in the consent decree procedure retains the provision presently contained in Section 5 of the Clayton Act concerning the use of a consent decree in any way in subsequent litigation as prima facie evidence of violation. A new subsection (D) provides that proceedings before the district court in connection with the decree pursuant to this Act and public impact statements filed pursuant to the Act are not admissible against any defendant in any action or proceeding arising out of any such action or proceeding. In addition, the court may not take any action or proceeding against any defendant as prima facie evidence against such defendant in any such action or proceeding.

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

SECTION 3. CRIMINAL PENALTIES

This section increases the penalties for criminal violations of the antitrust laws from $5,000 to $100,000 for individuals and $50,000 for corporations.

The new language provides that individuals may be fined not more than $10,000 or imprisoned not more than one year, and corporations may be fined not more than $500,000.

By Mr. PELL:

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

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

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

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

The disagreement remains with the means the Congress should use to maintain the viability of our railroad services. Very few persons want to nationalize the railroads.

Very few persons want to subsidize the railroads.

The question then remains as to what ought to support our railroad system, especially our railroad system in the Northeast Corridor.

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

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

Airlines are provided runways and airwaves, and truckers are provided highways through the implementation of governmental policies. Yet railroads are left solely responsible for providing their own rights-of-way.
I think it is unreasonable to expect that railroads will remain competitive with motor transport, if railroads are to be the only mode of transportation which are to be left to finance completely their own rights-of-way.

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

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

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

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

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

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

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

If, by some unlikely circumstance, the roadbeds acquired by the authority were not able to be leased to a railroad or able to generate enough income to pay off the bonds, the authority could sell the roadbeds to commercial developers. Since real estate is as constantly appreciating investment and since most railroad beds likely to be purchased by an authority as needed for services will lie in densely populated areas, the income from the sale of the nonusable roadbeds to commercial developers would not produce more than enough income to repay the defaulted revenue bonds.

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

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

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

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

Fourth, the new bureaucracy would be created for the operation of the newly created National Rail Passenger Corp.—Amtrak—would be simplified. Since the railroad rights-of-way authority would have no operational authority, only authority to appraise, condemn, and issue bonds for rail rights-of-way, there would only be the need for one person able to serve at any time.

If Amtrak could contract directly with the users of the roadbeds it would use with the railroad rights-of-way authority instead of contracting through existing railroads which are only concerned with freight service, Amtrak would be able to ascertain the true cost of this service and would be in a better position to contract for a better treatment of its passenger trains via various freight trains.

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

My own State of Rhode Island has been particularly hard hit by Penn Central's bankruptcy in terms of direct job losses. Second, Amtrak and in terms of damage done to our State's industry due to the lack of reliable freight service.

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

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

His imaginative thinking has provided the inspiration for this proposal; and I believe that his well-known financial sagacity should provide confidence in us.

This proposal is one of substance and one that is economically viable. I realize its chances of passage in this Congress are limited. But this is an approach and an idea that I believe not only has merit, but will come to be, and the sooner the better. I know I will fight for it as hard as I can.

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

S. 4017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Railroad Rights of Way Authority Act".
September 21, 1972

CONGRESSIONAL RECORD — SENATE

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tum of the amount paid for such right of way, and (B) for maintenance in accordance with standards established by the Authority to operate the railroad which shall provide that in any case approved by the Secretary of Transportation the Authority may lease the right of way to another railroad and obtain additional railroads at such rate and in such event the minimum provided in this clause shall apply to the total received from all such railroads.

(4) may enter into such arrangements as may be appropriate for the use or disposition of such right of way or the property upon which it is located which is not thereafter leased to a railroad or otherwise necessary for rail transportation purposes.

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

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

TAX FREE EXCHANGES

SEC. 5. For the purpose of the Internal Revenue Code of 1954 the receipt by a railroad of bonds pursuant to section 4(1) of this Act and the receipt of any such bonds from the Administrator of any credit agency or other capital indebtedness shall be treated as an exchange to which section 103 (relating to tax free exchanges) applies.

PROVISIONS

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

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

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

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

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

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

(6) make other expenditures.

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

APPROPRIATIONS AUTHORIZED

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

By Mr. KENNEDY:

S. 4020. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through such means as are referred to the Committee on Post Office and Civil Service.

PROTECTION OF MAGAZINES FROM RISING SECOND CLASS POSTAL RATES

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

I have previously indicated that light the Postal Reorganization Act of 1970 established the U.S. Postal Service, a quasi-governmental, self-governing entity, to replace the traditional Post Office Department wherein questions of rate and expertise were spent in deciding the appropriate administrative procedures that would be necessary to allow the new Postal Service to function effectively. An important part of that legislation has been the general 'hands-off' philosophies applied by Members of both the House and the Senate— that is, a strong reluctance by Congress to interfere in the ongoing decision of the new agency.

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

Some weeks ago, I joined with Senator GAYLORD NELSON, of Wisconsin, and a number of my colleagues in introducing an amendment (S. 3758) in the Senate to help mitigate the unfair impact of these new rates. Now, I am pleased to join with Congressman Morris Udall, of Arizona, in introducing new legislation in the Senate and the House of Representatives to alleviate the crisis.

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

The bill I am introducing contains four principal provisions:

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

Second, a ceiling of 60% percent of the applicable rates is established for the first 250,000 copies of any publication. In this way, important new protection is provided for small volume magazines and other journals.

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

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

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

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

I ask unanimous consent that the text of the bill may be printed in the Record.

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

S. 4020

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

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

(1) by inserting "(c)" immediately before "as a form of post office for any class of mail or kind of matter":

(2) by striking out "with annual increases as nearly as practicable for mail under former sections 4421, 4422, 4452, and 4484, and with biennial increases (after 1972), as nearly as equal as practicable for mail under former sections 4388 and 4399, so that":

(3) by inserting "in the case of mail under former sections 4388 and 4399 immediately after "tenth year" in paragraph (1)

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

(5) by deleting the word "and" at the end of paragraph (1); and

(6) by striking out "as nearly as practicable for mail under former sections 4421, 4422, 4452, and 4484, and with biennial increases (after 1972), as nearly as equal as practicable for mail under former sections 4388 and 4399, so that":

(b) The rates for mail under section 4389 shall be equal, on and after the first day of the tenth year following the effective date of the first rate increase applicable to that class or kind, to the rates that would have been in effect for such mail, if this subsection had not been enacted;

(c) by adding immediately after "unless he files annually with the Postal Service a written request for permission to mail material, subject to the following new sentence:

"Notwithstanding any other provision of this subsection, the rates established by the Postal Service for the first 250,000 pieces of each issue of a publication of a class or kind authorized to be mailed under former sections 4388 and 4399 of this title shall not exceed 60% percent of the otherwise applicable temporary or permanent rate then in effect;"

(d) by adding immediately after "unless he files annually with the Postal Service a written request for permission to mail material, subject to the following new sentence:

"Notwithstanding any other provision of this title, the revenues received from rates for mail under section 4388 shall not exceed 50% percent of the amount that would otherwise be received from any increase in rates for such classes required by the provisions of this section and of title 39 of the United States Code, as enacted by the Congress on August 2, 1972, if this subsection (b) had not been enacted;"

"Notwithstanding any other provision of this title, the revenues received from rates for mail under section 4389 shall not exceed 60% percent of the amount that would otherwise be received from any increase in rates for such classes established in any proceeding under the provisions of