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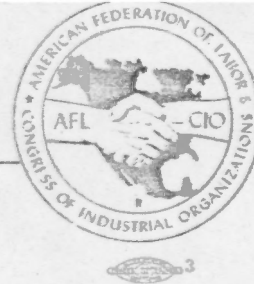
# NEWS

from the

# AFL-CIO

DEPARTMENT OF PUBLIC RELATIONS

(202) 637-5010



For Release:

A.M. PAPERS, MONDAY, DECEMBER 8, 1975

AFL-CIO President George Meany today made public a policy statement on the "Principles for Full Employment Legislation."

The statement was adopted Friday by the Economic Policy Committee at a meeting at AFL-CIO headquarters, chaired by Vice President I. W. Abel, who is president of the United Steelworkers of America.

Meany said, "we will start immediately to implement the committee's recommendations."

The text of the statement is attached.

-30-



AFL-CIO Economic Policy Committee  
Statement on  
Principles for Full Employment Legislation

December 5, 1975

Full employment has been a major objective of the American labor movement since its inception.. A job opportunity at a decent wage for each person able and seeking work — the only definition of full employment that is acceptable to the labor movement — is an economic necessity, for jobs are the lifeblood of the American economic system.

From jobs come the wages that generate mass purchasing power. A job is a key measure of a person's place in society — whether as a full-fledged participant or on the outside looking in. Work is the source of individual fulfillment. It is positive, constructive activity.

It was in this spirit that the recent AFL-CIO Convention reiterated its support for programs to achieve full employment and urged "the immediate adoption of a national full employment policy" by the Congress.

The Convention resolution further declared: "The Employment Act of 1946 contained more promise than action. We need legislation which provides that the President and Congress spell out specific programs to create jobs for every American willing to work. At long last we must recognize that in our modern society a worker is entitled to a job as a matter of right and the total society, including government, must assume this responsibility and must guarantee its fulfillment."

The Convention entrusted this committee with the responsibility of studying proposals pending in Congress and determining those fundamentals that must be included in planning a Full Employment Act to make it both achievable and workable. We consider the following to be essential:

1. Full employment must mean, in fact, job opportunities, at decent wages, for all those who are able to work and seek employment. This means that the unemployed, at any time, would be only persons who are temporarily jobless -- such as entrants into the labor force, people moving from one job to another or from one part of the country to another, or people who are temporarily jobless as a result of seasonal fluctuations in their specific industry.

2. The Congress must declare, as we do, that the Administration forecasts of unemployment -- 7.9% in 1976, 7.2% in 1977, 6.5% in 1978, 5.8% in 1979 and 5.1% in 1980 -- are completely unacceptable. The Congress must undertake an immediate and sustained campaign to reduce unemployment to 3% of the civilian labor force and keep it from increasing, in the future, to more than 3%.

3. The Congress must require the President annually to submit to it targets, policies and programs to achieve full employment and to meet national needs.

4. The President must be required to propose specific federal tax, expenditure, budget and monetary policies and programs to meet the targets he proposes for full employment, balanced economic growth and national needs.

5. The Congress should establish a consultative body, composed of major groups in the economy, to review the President's goals and policies.

6. The Congress should provide procedures for prompt Congressional review and action on the President's economic goals and policies.

7. The Federal Reserve, as a key government agency in the economic area, should be required to justify to the President and the Congress the manner in which its policies concerning interest rates, the money supply and availability of credit will help meet the targets and objectives that are established.



8. The full-employment goal must be good jobs at good pay. To the extent that the economy's regular channels of private and public employment fail to achieve that goal, the government must maintain a public employment program to provide additional jobs at prevailing rates of pay, but in no case less than the federal minimum wage. Such a program should be of sufficient size to keep unemployment below 3%.

9. The Congress must establish full employment as the top-priority objective of national economic policy to maintain the strength of American society. The Congress must realize that an obsession with budget deficits ignores the benefits of a full employment economy -- increased jobs and increased earnings, reduced unemployment benefits and welfare costs, increased sales for business, increased savings and investment, and increased tax receipts.

The way to cut the deficit, quickly and substantially, is to put America back to work. Any other proposal means continuing deficits, continuing high unemployment, continuing hardship, continuing recession.

Those who put deficits before people have no faith in America. They would condemn America to continued idle plants, idle machinery, idle productive equipment, and idle manpower.

It is precisely because the AFL-CIO is so opposed to this negative thinking that we support a Full Employment Act. We consider it an early "must" item for consideration by the next session of the Congress.

There are many friends of the concept of full employment in the Congress who have demonstrated their concern through the introduction and support of legislation. We trust they will combine to push for a realistic, achievable, workable measure containing the fundamental points we have outlined.

It is the recommendation of this committee that this statement be immediately conveyed to every member of the Congress and that the help and assistance of the AFL-CIO be extended to members in the drafting of legislation that will meet our objective -- jobs at decent wages for everyone able to work and seeking work.

PROPOSALS FOR PUBLIC HEARING ON FEDERAL POLICY CHANGES

December 9, 1975

Los Angeles Convention Center



SUBJECT: GIANT CORPORATIONS' RESPONSIBILITY FOR OUR  
ECONOMIC PROBLEMS AND HOW TO MAKE THEM ACCOUNTABLE  
TO THE PUBLIC NEED AND INTEREST

...NATIONAL CORPORATIONS  
...CHARGES AGAINST THE OIL CORPORATIONS  
...TRANSNATIONAL CORPORATIONS  
...PUBLIC OWNERSHIP

SUBMITTED BY: Ruth Ehrlich, Legislative Chairperson  
California Democratic Council  
5371 Wilshire Blvd., Los Angeles, Ca. 90036  
phone: (213) 933-7397

## NATIONAL CORPORATIONS

Millions of Americans are walking the streets jobless and hungry. Inflation continues to spiral, uncontrolled, draining the poor and middle class, depriving them increasingly of necessities for life, liberty and the pursuit of happiness. The quality of life is deteriorating in countless ways, affecting our social, psychological and environmental well-being. Small businesses have either been devoured already by giant corporations or face the prospect of economic ruin. In order to save our nation from a complete economic collapse, we must pin-point the cause.

We charge the present corporate system with responsibility for the economic and social chaos facing this country. The recent energy crisis was a classic example of how corporate power, unbridled, can bring disaster upon our economy. The oil combines have usurped our natural energy resources and operated them in their own self-interest, rather than in the interests of this nation. They have caused grave economic havoc and thus violated their social responsibility, by:

- ...deliberately under-producing, creating false shortages, in order to raise prices;
- ...caused shock-waves throughout the economy, forcing countless products to join the inflationary spiral;
- ...destroyed competition, brought about business failures and unemployment;
- ...scuttled free market price regulation through supply and demand;
- ...caused consumer prices to double and treble, while themselves enjoying ever-soaring profits;
- ...received oil-depletion allowances intended for research and development, but failed to produce;
- ...bought up coal, tar sands, shale oil, geothermal and solar energy assets, in defiance of anti-trust policies, in order to control and hold back development of alternate energy sources that could compete and lower prices;
- ...strip-mined at accelerated pace, without environmental safeguards;
- ...moved relentlessly to drill oil off-shore, despite dangers from spillage and leakage to eco-structure of sea and land;
- ...caused dependence on foreign oil to rise;
- ...avoided tax payments through foreign tax credits, intangible drilling cost write-offs, depletion allowances.

Born out of the concept of "free enterprise", big business has made a mockery of the term as it has consistently devoured, over the years, thousands of its weaker competitors. It has accumulated the wealth of our nation in fewer and fewer hands, with power unrivaled in the annals of recorded history. The top one hundred corporations own and control two-thirds of all products manufactured in this country; 4% own 90% of our stock; 50 banks control 2/3 of our deposits.

(continued, page 2)

Firm in the belief that a democratic Republic can only exist if economic-decision-making power is broadly exercised by the people and not by a few, and that national as well as world economic chaos will only be averted if democratic controls and decision-making is returned to the people, we propose:

1. Economic enterprises must be placed under new laws and safeguards that will provide for democratic participation of all American citizens in the economic decisions that effect their well-being.
2. Monopolies in virtually every major retail and wholesale industry, which has forced consumers to pay higher and higher prices, must be broken up. Competition and supply-demand must be given a chance to regulate prices, but that failing, price controls must be instituted.
3. The historic "robber-baron" role of giant corporations seizing control of our lands and natural resources must be ended, with controls being returned to the people. Public corporations and public ownership of industries that are critical to daily survival must be established to replace corporate strangleholds on our needs.
4. Laws must be passed to criminalize corporate conspiracies that create false shortages in order to raise prices and unwarranted profits.
5. The manufacture of unsafe products that kill 30,000 and permanently disable 110,000 Americans each year must be prohibited by law.
6. Industrial negligence, which kills 14,000 workers and permanently disables 900,000 more every year, must be ended by holding corporations accountable for safety measures.
7. Stringent laws must be passed and enforced to prevent corporations from destroying our natural environment.
8. Placing corporate members or supporters in key government commissions must be prohibited. The public interest cannot be served when industries regulate themselves, since their self-interest comes first.
9. Charters governing the right of corporations to operate should be accountable to the public and enforceable in the public interest.
10. Corporate tax loopholes must be closed, compelling them to pay their just share for the needs of this nation.
11. Corporate lobbying operations which dictate the legislative direction of governmental bodies in their own interests rather than the needs of the nation, must be terminated. Turning over billions of dollars of our tax monies in the form of government subsidies and special favors to corporations should cease.
12. Financing by corporations of their own candidates for local, state and national office must be made illegal.

(continued, page 3)

## MULTINATIONAL, TRANSNATIONAL CORPORATIONS

A new super-colonialism has developed in which national economies are subordinate not to other nations but to the workings of transnational economic systems over which they have no control. Global stability or global crisis is in the hands of this omnipresent oligarchy, with world survival at stake.

Multinational corporations today dominate world production. In 1973 140 U.S. multinationals had aggregate sales of \$380 billion - a sum larger than the gross national product of any nation other than the U.S. and the U.S.S.R.. They operate their own intelligence networks, fleets of planes, and carry out their own foreign policy, often independently of their country of origin. Thus, during the 1973 oil crisis, Exxon gave Saudi Arabia secret refinery data that was used to cut off the supply of oil to U.S. military units. I.T.&T. played a key role in "de-stabilizing" the Allende regime in Chile, leading to its downfall.

Transnationals shift their tax obligations from one country to another in ways that minimize them. They escape a nation's labor standards by transferring production to plants located where wages or health and safety requirements are lower. When one nation sets up anti-pollution controls, the transnationals shift production across borders and toxify rivers without interference.

The enormous power of these corporations must be brought under control. However, since they operate outside the legal boundaries of their own nations, how to do it is the problem. We therefore propose the following:

1. In the interest of national and world stability, the U.S. should take the initiative to organize TRANSNATIONAL CONTROLS over multinational corporations, including controls over globe-straddling banks.
2. To assure that this is done, a new coalition of citizens must be organized, nationally and world-wide, to include smaller business representatives, trade union members, consumer-environmental organizations, etc. - to bring pressure to bear on political figures.
3. New world-wide rules should be established, to include wage and safety standards; environmental protection; investment and banking; closing the loopholes that enable multinationals to escape or minimize national tax obligations.
4. Establishment of world food banks to deal with famine crises, as well as to stabilize world prices.
5. Prohibition of corporate interference in the internal politics of nations, with severe sanctions such as requiring them to cease doing business in those nations organized to maintain transnational control.

(continued, page 4)



## SUBJECT: PUBLIC OWNERSHIP

The earth is a trust for all present and future generations to enjoy. It was never intended by the Maker that the land and resources of this nation should be owned and ruled by a handful of individuals. We the people are the custodians, and are entitled to a voice in determining how our natural resources should be used and preserved.

We deny the right of business corporations to lay claim to the land and resources of this nation. By what right have ARCO, Standard, Exxon taken possession of the oil that took millions of years to form under the earth's surface? By what right do they plan to sell us the sun in the form of solar energy?

Our early history is replete with accounts of the "robber barons" - corporate entrepreneurs who took possession of the land and resources of this country, using swindle, corruption, thievery, manipulation and plunder. Having acquired these resources, they have abused their privilege by acting in their own interest rather than in the nation's.

The most recent fraud was demonstrated clearly by the so-called "energy-crisis" - a classic example of usurpation of public property and disregard for public need and national interest. This example of irresponsible behavior toward the public's needs (see page 1 of proposals re Corporate, National and Multinational Responsibility & Accountability) serves to illustrate the kind of situation in which assumption of public ownership is mandatory to restore the economic health of this nation...

We therefore advocate:

1. Formation of public corporations, at federal and state levels, or outright public ownership, should be undertaken where industries have demonstrated consistent irresponsible behavior toward the public good and have caused grave harm to our economy.
2. Natural resources, essential for the operation and survival of this nation, should be the first industries to be transformed to public ownership, in order to do the necessary research, development, production, distribution and conservation of our resources.
3. In any area where the field of production is better than 50% controlled by four or fewer corporations, a return to pre-monopoly laissez-faire conditions is economically unfeasible; assertion of national control is in these instances necessary.
4. To simply have government assume public ownership is not sufficient, for democratic controls are essential. Government should control business and the public should control government.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

December 20, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: JAMES A. LYNN

SUBJECT: Coordinated procedure for increases in indexed programs and Federal pay

Expansion of indexed programs has been a major source of growth in the Federal budget in the past and, unless restrained, will continue to be so for the indefinite future. One probable reason for the failure of our recent attempts to restrain them is that those attempts have been made essentially on a program-by-program basis. The proposal of a comprehensive, consistent plan may improve chances of Congressional acceptance. Here is the outline of such a plan for your consideration.

A. Description of plan

1. All indexed programs and all Federal pay raises other than those applicable to Postal Service employees would be covered.
2. Whenever the President determined that the economic and fiscal outlook of the nation required it, he would present a plan to the Congress modifying such increases.
3. No "caps" would be permitted. Such modification could be only to slow down the rate at which the full increase would go into effect during the year. By year-end, the full increase must be in effect.
4. The modifications determined by the President would have to be consistent across all programs (relative to the increases authorized by existing law) unless the President includes with the plan a written justification of deviation from the requirement of consistency.

5. The total amount of the increase paid to the beneficiaries or employees during the year under the plan would have to be at least 50% of the full increase provided by the particular indexing law.
6. Congress would have the authority to disapprove such plan (but only in its entirety) by a vote of both Houses.

B. Legislative aspects of the plan

The plan would have some characteristics of the "alternative plan" feature of the procedures under which the President can propose a pay raise that differs from the one determined by the President's Agent.

1. The President has the authority to initiate modifications of increases otherwise provided by law.
2. The plan would lay before the Congress for 60 days, at the end of which it would become effective unless disapproved.

But there would be differences too.

3. The scope of the plan would be considerably wider, covering all indexed programs as well as Federal pay raises, and the Congressional vote would be up or down on the entire plan.
4. Unlike the present alternative pay plans, a two-House veto would be required (instead of one-House).
5. The President would have the option of changing his plan (either to moderate more or less) during the course of the year if economic and budget considerations made such a change appropriate. (As a practical matter, this means that he has the option of proposing that the full rate of entitlement be paid sooner than proposed in the original plan.)



C. Pros and cons of the plan

Pro:

1. Permits the President to take the initiative in telling the public the facts of life about the need to restrain Federal spending and present a plan for doing so with respect to increases affecting a major portion (40%) of the budget.
2. Presents a comprehensive Presidential plan for restraint on indexed programs and Federal pay that is related to economic need.
3. Has a reasonable chance of being accepted politically, whereas caps or limits on numerous programs have not been. Is more acceptable:
  - because of the phase-in feature, including catch-up by the end of the entitlement period, and
  - because, unless the President is will<sup>is</sup> to explain inconsistency, the plan would be consistent across programs.
  - because Federal employees can no longer be "capped" and won't be hurt at all unless the President is willing to "bite the bullet" on all programs or explain the inconsistency.
4. Avoids the Congressional hurdle implicit in the existing requirement that numerous committees approve actions affecting specific programs.
5. Is fair in linking restraint in such diverse programs as social security to that in Federal pay, as well as to each other.

Con:

1. Will be perceived by the Congress as a proposed shift of power from the Congress to the President.
2. Will be interpreted by the Congress as possibly interfering with the new Congressional budget

process in its first full year of operation by permitting the President to increase spending (subject to Congressional veto) after the second concurrent resolution has been adopted and point-of-order rules are in effect for proposed increases by the Congress.

3. Is--no matter how it is described--a plan for requiring recipients of Federal benefit payments and most Federal employees to absorb up to 50% of the increases in the cost of living without requiring others--including Postal Service employees--to make a similar sacrifice. //
4. Will in moving to two-House veto be viewed as erosion of Federal employee one-House veto protection.
5. Requires quick action on a complex, broad legislative proposal that the Congress is not presently organized to handle.
6. Would add \$5 billion more to 1978 outlays, and even more each succeeding year, than would a 60% cap on these programs that lowers the payments at the beginning of the next entitlement period, and thus makes presenting a balanced budget for 1979 more difficult.

#### Application of the plan to the 1977 budget

If you accept the concept outlined above, implementation can be included in the 1977 budget proposals. The budget need not present or commit to a plan. It could simply indicate present intentions subject to change as the time for a plan for FY 77 approaches.

**COMMITTEE FOR ECONOMIC DEVELOPMENT**  
**477 Madison Avenue New York, N.Y. 10022**

February 20, 1976

FROM: Wayne E. Thompson  
Chairman, Subcommittee on  
Improving Productivity in Government

RE: CED Policy Statement, Improving  
Productivity in State and Local  
Government

I am enclosing a confidential galley  
copy of the forthcoming CED statement  
Improving Productivity in State and Local  
Government, that will be discussed Tuesday,  
March 2, 1976.

Cocktails - South Lounge - 6:30 p.m.  
Dinner - Chandelier Room - 7:15 p.m.  
Sheraton Carlton Hotel  
Washington, D. C.

If you have not replied to my wire,  
please call:

CED, Washington - 202/296-5860  
CED, New York - 212/688-2063



# Improving Productivity in State and Local Government

*A Statement on National Policy  
by the Research and Policy Committee  
of the Committee for Economic Development*

*March 1976*



ADVANCE GALLEY COPY

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**UNTIL MARCH 4**

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COMMITTEE FOR ECONOMIC DEVELOPMENT

477 Madison Avenue, New York, N.Y. 10022

## Responsibility for CED Statements on National Policy

The Committee for Economic Development is an independent research and educational organization of two hundred business executives and educators. CED is nonprofit, nonpartisan, and nonpolitical. Its purpose is to propose policies that will help to bring about steady economic

growth at high employment and reasonably stable prices, increase productivity and living standards, provide greater and more equal opportunity for every citizen, and improve the quality of life for all. A more complete description of the objectives and organization of CED is to be found in the section beginning on page 92.

All CED policy recommendations must have the approval of the Research and Policy Committee, a group of sixty trustees whose names are listed on these pages. This Committee is directed under the bylaws to "initiate studies into the principles of business policy and of public policy which will foster the full contribution by industry and commerce to the attainment and maintenance" of the objectives stated above. The bylaws emphasize that "all research is to be thoroughly objective in character, and the approach in each instance is to be from the standpoint of the general welfare and not from that of any special political or economic group." The Committee is aided by a Research Advisory Board of leading social scientists and by a small permanent professional staff.

This statement by the Research and Policy Committee defines the dimensions of state and local government productivity, identifies the principal areas of opportunity for improvement, outlines approaches that

can motivate states and community jurisdictions to take action, and proposes steps that the states and the federal government can take to encourage productivity in the governments within their purview. The Committee is not attempting to pass judgment on any pending specific legislative proposals; its purpose is to urge careful consideration of the objectives set forth in the statement and of the best means of accomplishing those objectives.

Each statement on national policy is preceded by discussions, meetings, and exchanges of memoranda, often stretching over many months. The research is undertaken by a subcommittee, assisted by advisors chosen for their competence in the field under study. The members and advisors of the Improving Productivity in Government Subcommittee, which prepared this statement, are listed on page 6.

The full Research and Policy Committee participates in the drafting of findings and recommendations. Likewise, the trustees on the drafting subcommittee vote to approve or disapprove a policy statement, and they share with the Research and Policy Committee the privilege of submitting individual comments for publication, as noted on this and the following page and on the appropriate page of the text of the statement.

*Except for the members of the Research and Policy Committee and the responsible subcommittee, the recommendations presented herein are not necessarily endorsed by other trustees or by the advisors, contributors, staff members, or others associated with CED.*

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<sup>1</sup>Voted to approve the policy statement but submitted memoranda of comment, reservation, or dissent or wished to be associated with memoranda of others. See pages 79 to 84.

<sup>2</sup>Voted to disapprove this statement.

*Note* A complete list of CED trustees and honorary trustees follows page 92. Company or institutional associations are included for identification only; the organizations do not share in the responsibility borne by the individuals.

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## Purpose of This Statement

STATE AND LOCAL GOVERNMENTS are a fundamental and integral part of our nation's overall economic well-being. Few realize that states and localities, not the federal government, are now primarily responsible for administering most of the tax dollars used to deliver public services. State and local spending accounts for over 80 percent of all nondefense government purchases of goods and services and almost 15 percent of the gross national product; together, these governments employ one of every seven non-agricultural workers.

Persistent inflation, compounded by an onerous recession, has intensified public concern with the cost and performance of government and has threatened the ability of even the most affluent jurisdictions to continue to function and fulfill their obligations. Yet, neither drastic cuts in spending in response to simplistic attacks on "big government" nor wholesale enlargements of public programs will meet the tough challenge of making government more productive and more responsive to genuine public needs.

Our report is not a direct response to some of the serious economic problems confronting state and local governments; its proposals are not calculated to provide the solution to immediate financial crises or the basis for a strengthened revenue structure. But in stressing the need for a wiser allocation and management of resources, this policy statement establishes many of the preconditions for restoring governments to a firmer financial footing.

**Public Confidence.** Revelations of public scandals and government mismanagement have added still another dimension to the importance of improved government productivity. By encouraging states and localities to identify needs, define their missions, and deliver services efficiently and effectively, we believe this statement will stimulate actions that can strengthen the credibility of public leadership and respect for public institutions at every level of government.

Even though it is gradually being recognized as an alternative to service cutbacks or higher taxes, productivity has remained a narrowly defined last-resort approach to specific problems. Too often, successful efforts are neither widely known nor readily available to other jurisdictions that could benefit from the experience. Beyond explaining the urgency of productivity, we intend this report to serve as a catalyst for productivity improvement through careful planning, effective management, and mobilization of the political desire to act.

**Broadened Concept.** Productivity in government encompasses a wide range of complicated and often controversial issues. In this statement, we seek to expand the awareness and understanding of productivity in a way that will give it prominence on the agenda of elected officials, public administrators, and citizens.

Our statement broadens the concept of productivity beyond its traditional definition. It is not enough to consider productivity a measure of output to input for a specific government activity or a limited means of either "getting more for less" or simply prompting bureaucrats to work harder. Productivity begins with a determination of goals and objectives (specifying what the government should and should not do) and then proceeds to identify the most cost-effective means of achieving those ends. Only after these two fundamental steps have been taken will improvement in efficiency (the traditional ratio of resources to results) be significant and meaningful.

**Four Areas of Opportunity.** Numerous factors, individually and in relation to one another, affect productivity. In this report, we identify four main areas of opportunity: strengthening management, motivating the work force, improving technology and increasing capital investment, and measuring both immediate results and the full impact of government programs. We also explain closely related activities needed to start and to

sustain productivity improvement, including the provision of formal systems of evaluation, the introduction of competition and consumer choice, and the encouragement of political support for productivity programs. Although we recognize the unique character of government, we nevertheless believe that many of the principles used in private enterprise can be applied in the public sector.

With 50 states and some 39,000 general-purpose governments, it would have been impossible to outline specific actions that would apply equally to a Los Angeles and a Peoria. Therefore, we identify the principal deficiencies and opportunities for improvement that are common to most state and local jurisdictions, and we suggest general approaches that they can adapt to their particular circumstances. Our specific recommendations (summarized in Chapter 1 and discussed in detail in Chapter 5) show how states and the federal government can encourage and assist jurisdictions within their purview to adopt methods of operation that will lead to productivity improvement.

*Improving Productivity in State and Local Government* continues CED's work in the field of improving the management of government. Our direct interest in productivity stems from CED's studies of education, welfare, health care, and other services; we found states and localities lagging behind other sectors of the economy in the management of these functions. Our statements *Modernizing Local Government* (1966), *Modernizing State Government* (1967), and *Reshaping Government in Metropolitan Areas* (1970) focused on the need for strong structural, financial, legal, and administrative foundations to provide effective and efficient state and local government. This report builds on that base by explaining how these governments can better transform tax dollars into services that actually meet citizen needs. An in-depth examination of labor relations and employee compensation will be made in a subsequent project.

**Acknowledgments.** The subcommittee that prepared this report included a number of trustees with experience in government as well as an impressive panel of advisors from the academic community and public policy study groups. A list of subcommittee members appears on page 6. I acknowledge particularly the contributions of the chairman, Wayne E. Thompson, senior vice president of the Dayton Hudson Corporation, Minneapolis, who served as city manager of both Richmond and Oakland, California, and Rocco C. Siciliano, chairman of the TI Corporation, Los Angeles, who has been an undersecretary of commerce and an assistant



secretary of labor. R. Scott Fosler, project director and director of government studies at CED, deserves special recognition for bringing a fresh and constructive approach to this most perplexing and difficult problem and for his skilled preparation of this report.

Philip M. Klutznick, *Chairman*  
*Research and Policy Committee*

# 1.

## Introduction and Summary of Recommendations

IN STATES AND COMMUNITIES across the nation, elected officials are telling their constituents that soaring costs confront government with two alternatives: either increase taxes or cut back services. Many governments today are doing both. Only a few farsighted leaders have broken away from this conventional response to pose a third option: that more intelligent use be made of existing resources to achieve desired goals; that is, increase government productivity.\*

Many Americans continue to harbor an image of state and local government as a community housekeeper or overhead operation required to support the more productive elements of the economy. But the facts are otherwise. The services provided by states and localities—education, law enforcement, fire protection, social services, health care, public works, environmental improvement, and numerous others—are fundamentally important in their own right, especially because they directly affect the quality of American life.

The resources consumed to produce these services have grown to a magnitude that makes state and local government one of the major components of the American economy. From 1954 to 1974, state and local purchases of goods and services grew almost sevenfold, from \$27 billion to \$192 billion; more significantly, that spending increased from 7.4 to 13.7 percent of the gross national product. (See Figure 1, page 13.) During the

\*See memorandum by FRANKLIN A. LINDSAY, page 79.

same period, the number of state and local employees increased from 4.6 million to 11.6 million persons, or to about 1 in 7 nonagricultural workers in the United States.

Productivity growth in the private sector has sustained America's high standard of living and opportunity. Private-sector productivity averaged about 2.5 percent annually from 1900 to 1947; since then, it has grown by an average of 3 percent a year. Although the rate of productivity growth began to slow in the late 1960s, hourly production per worker is still four times what it was a half century ago.

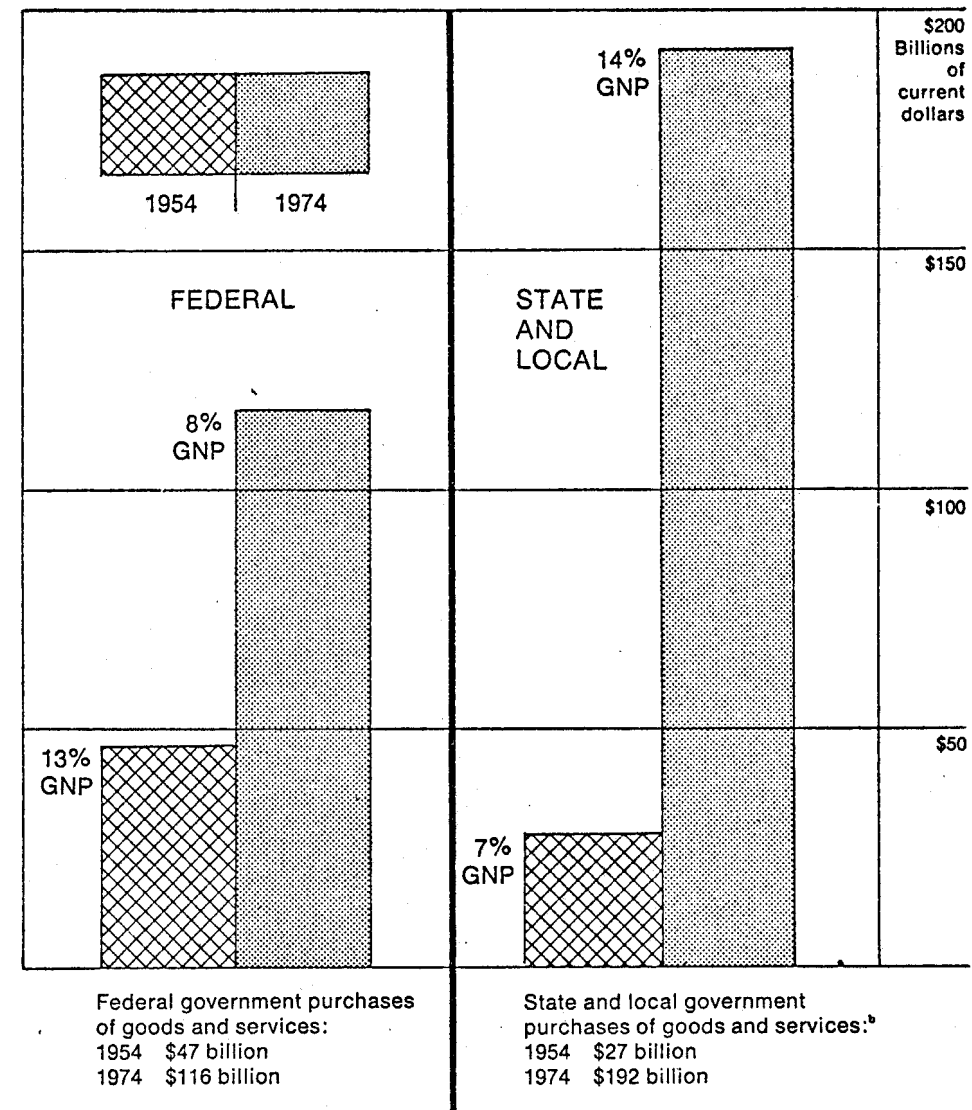
But Americans can no longer look solely to the private sector for productivity increases that will improve economic well-being. Given the shift in national resources to state and local governments and the significance of the services they provide, we must look there, as well, for greater productivity.

Previous CED statements on modernizing state, local, and metropolitan government focused on the structural foundations required for effective and efficient government. Such foundations, including the creation of regional institutions, improved community-level government within metropolitan areas, and the provision of modern organizational structures and administrative machinery, are critical to more productive government, but they are not sufficient. This statement probes still deeper into the process by which governments actually transform resources into services that meet public needs.

Improving government productivity is not a quick solution to imminent financial problems or an antidote to a weak tax base. It is a long-term task that requires continuing attention to every phase of government operations. There is no single correct approach. Efforts to improve government productivity must recognize the interplay between political forces and agency operations, between broad policy considerations and detailed administrative matters, between technology and people, between analytic technique and bureaucratic behavior, and between local prerogatives and national responsibilities.

This statement is an overview that identifies and links together the numerous elements that bear on government productivity so that more effective and coordinated action can be taken toward improvement: Its purposes are to define the dimensions of state and local government productivity, to identify the principal opportunities for improvement, to determine approaches for strengthening the forces that can motivate government, and to suggest how the federal system can encourage and assist states and localities in getting on with the task.

Figure 1: GOVERNMENT PURCHASES OF GOODS AND SERVICES  
IN THE UNITED STATES, 1954 AND 1974<sup>a</sup>



<sup>a</sup> Excludes transfer payments to individuals (social security, welfare, and so forth), which increased from \$15 billion, or 4 percent of GNP, in 1954 to \$134 billion, or 9.6 percent of GNP, in 1974.

<sup>b</sup> Total includes purchases made with federal grants.

Source: *Economic Report of the President* (Washington, D.C.: U.S. Government Printing Office, February 1975).

Because we recognize that governments vary widely in structure, legal constraints, size, and population served, we have not attempted to make specific recommendations that would be applicable to the great diversity of jurisdictions in the United States. Rather, we have identified the principal areas of opportunity for improving productivity and have underscored the responsibility of each government and the citizens it serves to take the initiative to exploit those opportunities as applicable to its jurisdiction. Our more specific recommendations focus on steps that can be taken by the states and the federal government to encourage and assist productivity improvement in the governments within their purview. Those recommendations are summarized here and elaborated in Chapter 5.

We are mindful of the political impediments to many of the approaches we suggest. However, most of the important changes in state and local government, such as use of city managers and establishment of metropolitan institutions, had to overcome formidable resistance where they have been adopted. Productivity is different from such changes in that it is not a technique or specific innovation but rather a concept or way of doing business that stresses higher overall performance at minimum cost. It is our hope that emphasis on improving productivity will become an integral goal of state and local politics and government operations.

## MEANING OF PRODUCTIVITY IN GOVERNMENT

The concept of productivity implies a ratio of the quantity and/or quality of results (output) to the resources (input) invested to achieve them. Government productivity has two dimensions: effectiveness and efficiency.

*Effectiveness* concerns the extent to which government programs achieve their objectives. This presumes that decisions about what and how much governments do are based on considered judgments of the relative importance and cost of meeting public needs. Perceptions of need, in turn, are presumably based on demands and expectations of voters and consumers as expressed through the political process.\*

*Efficiency* concerns the organization of resources to carry out government programs and functions at minimal cost. Efficiency may be expressed in several ways, including output per manhour, capital-output ratios, and more broadly, least-cost combinations of resources.

\*See memorandum by CHARLES P. BOWEN, Jr., page 79.

Productivity improvement, therefore, is an increase in the ratio of outputs to inputs, that is, providing more effective or higher-quality services at the same cost (or the same services at lower cost).

The inputs to government are relatively easy to define. They are the goods and services purchased by government from individuals (mainly public employees) and from outside organizations (mainly private firms). They can be measured in conventional terms: manhours, machine time, or money costs per unit. (The definition becomes more complex if one includes the contribution of the service consumer, for example, the ability and motivation of a student, or the environment in which the service is performed, for example, the classroom and the backgrounds of pupils.)

The outputs or results of government activity are more difficult to define. Some government services, such as refuse collection, are similar to those provided in the private sector; but because they are financed primarily by taxes, their objectives or value cannot be readily determined by market criteria, as in business. Government activities that aim to achieve broad social goals, such as creating a sense of physical security, are more difficult to define. In such instances, it is important to consider the full impact and consequences of government actions rather than just outputs, which refer to the immediate results of program activity. An added complication in defining outputs is that the services provided by public agencies are of less interest to some political groups than the inputs themselves; those who compete for government jobs, contracts, prestigious positions, and political power thus come into conflict with consumers and taxpayers who want quality public services at lower costs.

However, to discard the economic distinction between inputs and outputs would be to give equal weight to all political objectives, no matter how narrow or self-serving, thus abandoning any concept of the public interest and any hope of improving or even defining government's contribution to the quality of life. Although government serves many functions in addition to providing services (including promoting equality and resolving political differences),<sup>1</sup> for the purpose of defining and improving productivity, we view government outputs in the narrow economic sense: as those goods and services that governments produce for consumers.

1/A recent study by a group of municipal officials assessed the various roles of local government in light of the need for improved productivity. See Maryland Municipal League, *The Challenge to Municipal Government* (Annapolis, 1974).

### THREE STEPS TOWARD GREATER PRODUCTIVITY

Government productivity requires attention to each of three steps in the process of transforming public desires and tax money into accomplishments: identifying goals and objectives, choosing among alternative approaches to achieve objectives, and implementing programs.

**Identifying Goals and Objectives.\*** Productivity must first be concerned with what government should or should not be doing to meet citizens' needs and desires. In theory, such determinations are made by collective choice through the elected representatives of the people. In practice, however, the political process rarely works so neatly.

Even in small towns with homogeneous populations, differences may exist between younger newcomers who opt for higher standards of education and older residents who may prefer more convenient transportation or better police protection. In larger jurisdictions, where there are widely diverse economic, racial, and ethnic groups, collective choice is an even more dubious concept.

In most jurisdictions, small but effective citizens' groups actively appeal to elected officials and government agencies for new programs or increased budget allocations for existing programs (e.g., a swimming pool or a new library). Because they do not pay directly or totally for those services, which are financed mainly by taxes, such groups are rarely concerned about the cost of what they request.

Most citizens are poorly informed about what government does, have infrequent personal contact with government bureaucracy, and become concerned only when there are apparent breakdowns of crucial public services. Public perceptions of the quality of a government service may be quite at odds with what objective indicators reveal about that service.

In the absence of more objective criteria, elected officials are likely to establish or modify goals on the basis of demands from pressure groups, levels of complaints, their own political ambitions, and views expressed through the media, which both reflect and create public attitudes. Few public officials consider what their respective governments *ought* to be doing, focusing instead on the more immediate problems associated with what they *are* doing. Where questions of purpose and performance are raised, functional fragmentation permits responsibility to be passed from agency to agency. Thus, the police blame the courts for failure to punish criminal offenders; prosecutors claim that the police fail to supply evidence

needed for conviction; and all blame correctional institutions for not rehabilitating convicted felons.

Such behavior can be explained to some extent by the nebulous and conflicting nature of public goals. However, to excuse nonperformance by government agencies on the grounds that many of their goals and objectives are intangible is to evade the primary issue. The ultimate objective of *most* activities, including those in the private business sector, are intangible. *With any activity, the essential priority is to devote continual attention to its major purpose, however difficult that may be to define. Intangible goals must be redefined in terms of more specific and tangible objectives that can be measured.* Only then can resources be allocated toward their accomplishment, strategies and activities planned and carried out, responsibility for actions assigned to specific people, and performance ultimately evaluated so that someone can be held accountable for results.

We are not suggesting that there are necessarily right or wrong political and social goals that can be set in perfect harmony. However, improvements can be made in identifying goals that more nearly reflect a synthesis and account for a range of community needs and desires, and in setting tangible objectives that will most readily lead to the attainment of those goals.

**Choosing among Alternatives.** In order to achieve basic goals and objectives, choices should be made among alternative approaches. *Selection of approaches with the highest cost-effectiveness ratio presents the greatest opportunity for improving government productivity.* It also poses the most difficult problem of public management. How should housing be provided to low-income families: through government-constructed housing, rent supplements, or general income-maintenance programs? Which approach will more effectively hold down crime rates: increasing the certainty of apprehension, conviction, and punishment of offenders or providing job opportunities for unemployed teen-agers, who commit a disproportionate amount of crime?

In practice, few jurisdictions systematically identify policy alternatives, let alone analyze their relative costs and benefits. Rather, agencies tend to persist in using time-honored if demonstrably ineffective approaches and techniques simply because they do not know of better means or have no incentive to seek alternatives. Government agencies thus miss opportunities both for improved achievement and for cost savings that can be realized by eliminating marginally useful activities. The unexamined

\*See memorandum by MARK SHEPHERD, JR., page 80.

life, said Socrates, is not worth living; in government, the unexamined program is frequently not worth maintaining.

**Implementation: The Business of Getting Things Done.** *The time-tested principles of organization, specialization, supervision, communication, and established procedures are still largely valid; the missing ingredient in many government agencies has been the will and ability of managers to apply them.*

Many government operations, however, have become so large and complex that they require more sophisticated techniques of analysis, technological application, and management skill than those traditionally used by most governments. The problems of implementing government policy are currently little understood, involving as they do nebulous and often conflicting objectives, interaction among numerous government and non-government groups, and the need to balance political with technical considerations. Policy guidance from top officials is often so broad and ambiguous (in some cases necessarily so) that it places great responsibility for policy making in the hands of lower-level administrators. In turn, policy implementation in key functions rests heavily with the individual employee (the policeman, teacher, social worker, and others) who actually delivers the service or otherwise represents government to the public. Management in many government operations is less a matter of issuing directives from central command posts and more a process of communication and persuasion among top management, middle-level supervisors, employees, and citizen-consumers.

## PROGRESS TOWARD IMPROVEMENT

Only very crude estimates of overall state and local government productivity are possible with the data now available. Although some jurisdictions have made significant progress, existing data suggest that productivity may have declined in other areas. There are great disparities in performance levels from city to city; for example, one city collects three times as much refuse per manhour as another of similar size and topography. The absence of comparable performance data itself suggests lack of interest in productivity on the part of local officials. The federal government has undertaken a major effort to measure its own output and reports that the 65 percent of the federal civilian work force whose performance can be measured quantitatively improved their productivity by

an average of 1.5 percent annually from 1967 to 1974.<sup>2</sup> This effort underscores the potential both for measuring and for improving government productivity.

Some governments are paying greater attention to analyzing program benefits and costs and ways to improve and reduce the costs of operations in refuse collection, health care, police services, and other functions. A few states have created machinery to handle metropolitan-wide problems in a number of areas. Several states and localities have developed outstanding records for effective management. Such achievements can provide the momentum for further progress.

But the effort to date has been small in comparison with the need. Many state and local governments have been slow to recognize that a new era of problems and opportunities is upon them. In 1966, CED's policy statement *Modernizing Local Government* described a lack of motivation and capability that is still characteristic of too many of the nation's local governments. Some simply fail to perceive the creative and energetic efforts of other states and localities and will find they are being rapidly outpaced; others watch the new developments with indifference and skepticism.

The responsibility for lack of interest in productivity at the state and local levels lies in large measure with the public (business, labor, the media, and individual citizens). In the end, government responds to what voters and citizens demand of it. More effective and efficient government seems to be a topic a little on everybody's mind but not much on anybody's agenda. There is no cohesive constituency to push for it, as there are powerful constituencies that fight for more services and subsidies, higher wages, and larger contracts.

## PRINCIPAL AREAS OF OPPORTUNITY

Despite the diversity of America's 39,000 states, counties, townships, and municipalities, certain deficiencies and opportunities for improvement can be identified that are common to a large proportion of their governments.

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<sup>2</sup>/Joint Financial Management Improvement Program, *Annual Report to the President and the Congress: Productivity Programs in the Federal Government FY 1974*, vol. 1, *Current Efforts and Future Prospects* (Washington, D.C., June 1975).

**Strengthened Management.** *The greatest opportunity for improved government productivity lies in strengthened management. Deficiencies in management derive largely from the absence of political pressure for productivity on top elected officials (governors, mayors, county executives, legislatures, and councils) and from the failure to link the performance of agencies directly to the salaries and promotions of responsible managers.*

Improvements can be made in each of the three principal elements of government management: planning and budgeting, decision making, and operations. More effective recruitment and development of government managers are also required.

**Work Force.** The potential of employees, which is critical to productivity because government operations are labor-intensive, has not been fully developed. This statement does not attempt a detailed examination of worker motivation and labor relations because these will be subjects of a future policy statement. However, three issues of prime concern should be mentioned here.

First, collective bargaining is changing the relationship between public managers and employees, raising important questions about the political strength of labor in determining settlements and changing the climate of management through the blurring of distinctions between negotiable labor concerns and basic management prerogatives. The practices and traditions that are established now will determine for years to come whether collective bargaining will enhance or impede government productivity.

Second, many civil service systems show signs of rigidities and other tendencies that impede productivity.

Third, changes in the education, skills, and attitudes of workers require managers to rethink traditional modes of operation and personnel management, especially in those functions that require a high degree of employee discretion in carrying out policy.

**Technology and Capital Investment.** Much of the gain in productivity in industry has resulted from technological advances and capital investment. Numerous examples of innovation in cities, counties, and states (in better refuse collection devices, new fire fighting apparatus, and improved police communication equipment) have demonstrated that ingenuity, experimentation, and perseverance can produce results in the public sector as well. *We believe that greater use of technology will depend*

*largely upon the demand created for it by state and local governments through better identification and communication of need to potential suppliers, a more aggressive search for existing technologies, and the appropriation of funds explicitly for technological screening, experimentation, and implementation.*

**Improved Measurement.** *State and local governments should improve the measurement of their activities by employing existing but little-used techniques that provide basic management information and by developing and adopting newer techniques that focus on the evaluation of results.* The indicators should focus on social conditions, program effectiveness, and program efficiency. When coupled with political and professional judgment and assessed against costs, a combination of indicators can provide a more complete understanding of the overall productivity of most government activities.

## FORCES FOR MOTIVATING GOVERNMENT

Quality government ultimately depends upon the political demand for it. There is no single formula for producing the political pressure for productivity that is required to motivate elected officials. This is the responsibility of citizens under our democratic form of government. Nevertheless, the perceptions and reactions of voters combine with and are influenced by a number of other external forces that bear on the administration of public programs.

**Mechanisms for Evaluation.** *Audit agencies should follow the example of the U.S. General Accounting Office in concentrating increasingly on the effectiveness of government programs and the efficiency with which they are carried out, rather than just on financial administration and legislative compliance.*

Beyond an expanded audit role, however, high-level organizations with public prestige and visibility are needed to assess independently the performance of state and local governments. Such organizations would require regular and independent sources of financing to support a professional staff for analyzing services and mobilizing public support for improvement.

**Promoting Competition and Consumer Choice.** The monopolistic character of most public-service agencies is one reason for their lack of interest in productivity. *One way of responding to this situation is to encourage competition and consumer choice.* Under some circumstances, governments can achieve better performance by contracting with either public agencies or private organizations for services. Competition can be enhanced by supplying consumers with vouchers or other forms of purchasing power and permitting them to select services from private or public suppliers; fostering competition among government agencies, where this is feasible, can extend consumer choice.

**Political Impetus and Support from Outside Groups.** *Sustained improvement will require action by groups that can bring pressure to bear on government or otherwise offer support and expertise that can improve productivity.* Such groups include public-interest and government-reform groups; business, which can provide technical assistance in areas of government akin to business operations as well as increase its involvement in public affairs; both public and private organized labor, which is in a key position to identify opportunities for improving productivity (private unions can also bring pressure to bear on public unions to recognize the importance of productivity improvement); the media, which is the public's principal source of information on government operations; political parties, which at present have much to gain from demonstrating genuine concern for the ability of government to deliver on promises without adding to the tax burden; and educational institutions, particularly in providing training and direct technical assistance to states and localities.

## RESPONSIBILITIES IN THE FEDERAL SYSTEM

The principal responsibility for exploiting the opportunities for improving productivity rests with the states and localities themselves and with the citizens they serve.\* Nevertheless, state and local governments function as a part of the federal system, which can operate either to impede or to assist their efforts toward improvement.\*

**State Role.** Building upon their traditional responsibilities for establishing the foundations for effective local government, states have a central role in providing leadership, incentives, and technical assistance for raising

the productivity of their local governments and for removing the numerous state-imposed impediments to more effective internal management.

A long-overdue action by the states is to overhaul the structure of local government. **We recommend that state governments move vigorously to improve the structure of local government.** Such measures should include the creation of regional, metropolitan, local, and neighborhood institutions; the redefinition or redistribution of government powers and functions; and the authorization to permit local units to utilize inter-governmental contracting and other cooperative service arrangements.\*

States can also encourage the employment of professionally trained administrators. **We recommend that state governments encourage and assist smaller governments in enlisting professional management** (such as the circuit city manager or other manpower-pooling arrangements) and larger units in providing management training for top administrators and creating full-time administrative units staffed by personnel professionally trained in management and analysis.

Mobility of personnel should be encouraged so that professional skills will be used where they are most needed. **We recommend that state and local government personnel systems be modified to allow employees to move among local and state agencies without loss of rank, seniority, or pension rights.\***

A basic impediment to improved productivity is the absence of information by which performance can be evaluated by local governments themselves and by nongovernment groups. **We recommend that state governments establish and enforce minimum standards for local government budgeting, accounting, and performance and reporting systems that would provide data on the level, quality, results, and costs of services.\***

State and local governments lack mechanisms for systematically evaluating performance and taking action to encourage and assist local governments in improvement. In choosing among the available options, careful consideration should be given to selecting those approaches that are most appropriate for the diverse government systems in the various states. **We recommend that the governor of each state establish a high-level commission with state, local, and nongovernment representation to identify and suggest the creation of permanent mechanisms for evaluating and improving state and local government productivity.** Options to be considered include expansion of the traditional audit function to include performance reporting and evaluation, creation of an agency in the executive office of the governor (or assignment to another state agency) with responsibility for periodically evaluating and assisting in the improvement

\*See memoranda by OSCAR A. LUNDIN, page 80.

\*See memoranda by FRAZAR B. WILDE, page 81.



of local government productivity, and creation of a nongovernmental quasi-public institution with high visibility and a professional staff for the evaluation of state and local governments.

State governments should also provide financial and technical assistance to local governments for the purposes of developing and implementing performance measures, experimenting with or implementing techniques or programs that have the greatest likelihood of success, and undertaking other programs that would improve productivity.

**Federal Action.** The federal government also has a role to play in improving the productivity of state and local governments.

**Restructuring federal assistance.** The current spectrum of federal assistance programs to states and localities, ranging from general revenue sharing with few administrative requirements to categorical grants with detailed guidelines for implementation, fails to use federal influence to improve state and local government productivity and in some ways actually impedes productivity. We recommend that federal grants, including revenue sharing, block grants, and categorical programs, be redesigned to encourage improvements in the structure and internal management of state and local governments that will enhance productivity.\* There are several options by which federal grants could help to increase the capacity of states and localities to determine their own needs, to choose among alternative approaches, and to implement programs. These include:

Requiring that grant recipients meet specified administrative criteria\*\*

Requiring that a specific percentage of federal grants be expended for the development and implementation of techniques to measure, analyze, and improve operations

Establishing bonus payments for those states and localities that meet specified administrative requirements or develop and implement their own programs for measuring, analyzing, and improving operations

For categorical programs specifically, placing greater emphasis on achieving program objectives and quality performance and less stress on guidelines and requirements for program implementation

However, higher administrative standards do not address the more complex problems of managing government. We recommend that federal financial and technical assistance to state and local governments for improving internal management be expanded.

\*See memorandum by OSCAR A. LUNDIN, page 81.

\*\*See memorandum by CHARLES P. BOWEN, Jr., page 82.

The modification of federal assistance to encourage productivity improvement is a continuing task that needs to be coordinated at the federal level by a management-oriented agency. We recommend that the President designate a federal agency to develop policy and coordinate implementation of federal assistance to states and localities with the participation of state and local officials. This agency should have direct access to the chief executive.\*

**Improving public-sector manpower policy.** In addition to using the power of federal grants to improve productivity, steps could be taken to encourage more effective use of professional personnel to strengthen public-sector management. We recommend that the Intergovernmental Personnel Act (IPA) programs of interchange among federal, state, and local governments be expanded and, in addition, that interchanges between the private and public sectors be promoted. We further recommend that the U.S. Civil Service Commission's Bureau of Intergovernmental Personnel Programs or the National Commission for Manpower Policy undertake a major review of public-sector manpower policy in order to determine ways to make state and local civil service and personnel systems more conducive to productivity improvement and to examine possibilities for nationwide mechanisms of recruitment, interchange, and pension portability for state and local personnel.

**More effective innovation, research, and development.** To date, federal research and development has been deficient in strengthening state and local government. Too little of the overall federal effort has focused on state and local needs; there has been a tendency to apply research and experimentation randomly, with a consequent diffusion of effort; and dissemination of results has been inadequate. We recommend that federally sponsored research and development be restructured to devote a larger share of resources to problems facing state and local governments in a way that would involve state and local officials in identifying priorities and approaches, emphasizing systematic experimentation, and improving the dissemination of results.

**Leadership for improvement.** Success in improving state and local government productivity will require strong and effective national leadership, not to propose pat solutions that would be futile given the diversity of America's government jurisdictions, but to provide the stimulation, imagination, and resources required for mounting a long-term effort that encourages state and local actions toward improvement. We recommend

\*See memoranda by OSCAR A. LUNDIN and by R. STEWART RAUCH, JR., page 82.



that the President and Congress demonstrate their concern for improving state and local government productivity through support of an effective federal effort to provide leadership, coordination among federal agencies, and involvement and stimulation of state and local governments. We applaud the conversion of the National Commission on Productivity and Work Quality into the permanent National Center for Productivity and Quality of Working Life. However, to be effective, the new center requires funding substantially beyond its current annual appropriation of \$2 million.\*

Our concern for greater productivity arose initially from the realization that state and local governments were consuming an ever greater share of national resources without demonstrable improvements in services, thereby constituting a potential source of inflation and a drag on the economy. That concern persists. But the importance of improving productivity goes beyond the issue of cost and even beyond the desirability of achieving higher quality and effectiveness in the important services that government provides. It goes directly to the need for restoring confidence in government.

We are not suggesting that improving state and local productivity is all that is required to restore national confidence in government. The highest priority is the demonstration of integrity and decency by public institutions. However, full confidence will be established only when the nation is also reassured of the competence of government. We believe that a practical way to contribute to that objective is to strengthen the capacity of states and localities to deliver quality public services at reasonable cost.

For the past forty years, ideas and energy for improving government have flowed principally from the national to the local level. We believe that the time has come to stimulate a flow in the opposite direction by generating in communities across the nation the ability to manage their affairs effectively and creatively. In this way, the nation as a whole can draw upon the models of excellence that hold promise for improving the productivity of the public sector.

We are encouraged by some signs of vitality and imagination that are clearly visible and growing at the state and local levels. We are dismayed by the slowness of progress and the resistance of many governments to necessary change. Above all, we are convinced that the potential for improving the productivity of state and local government is great and waiting to be tapped.

\*See memorandum by R. HEATH LARRY, page 83.

# 2.

## Reasons for Concern

THE SLACKENING OF AMERICAN PRODUCTIVITY GROWTH in the late sixties prompted the President to create the National Commission on Productivity<sup>1</sup> to inquire into causes and possible solutions. The commission identified numerous reasons for lagging productivity and concluded that there were three broad areas of opportunity for improvement: use of human resources, technology and capital investment, and impact of government regulation on business. The commission also noted the rapid increase in the size of the public sector as a possible factor in slowing overall productivity and concluded that many of the means used to improve productivity in industry may be applicable to government as well.

A grave deficiency in assessing public-sector productivity is the absence of measures of most government output. Public-sector output, as calculated in GNP, does not directly reflect goods and services produced and delivered; rather, it is the cost of goods and services purchased by governments. This measure is employed because it is claimed that most of the things governments produce cannot readily be quantified. The private

1/The commission was subsequently renamed the National Commission on Productivity and Work Quality and in December 1975 was converted into the National Center for Productivity and Quality of Working Life.

sector encounters similar difficulty in quantifying service output but can determine the value of services as registered in consumer purchases. The federal effort to measure and improve the productivity of federal agencies (noted in Chapter 1) at least partly counters the contention that government productivity can be neither measured nor improved.

At the state and local levels, however, the situation is cloudier. There is little clear evidence that productivity in state and local government has kept pace with productivity in the private sector, and there are reasons to raise the possibility that productivity in some activities or jurisdictions may have been falling. This is an especially dim prospect given the growing importance of state and local government, where expansion has exceeded that of any other economic sector.

### GROWTH OF GOVERNMENT IN THE NATIONAL ECONOMY

Overall government activity in the United States has expanded in terms of both expenditures and number of employees.

**Expenditures.** Government expenditures consist of purchases of goods and services (which are the resources employed in the production and delivery of public services and which serve as a proxy for final results in measuring GNP) and transfers to persons (which consist mainly of social security and public assistance and related payments).

The rise in public expenditures from 1954 to 1974 (shown in Figure 2, page 29) reveals several important shifts in the quantitative importance of government in the economy.

Government expenditures rose from 27 percent of GNP in 1954 to 33 percent in 1974. The overall rise, however, was chiefly a result of an increase in transfer payments to persons from 4 percent to nearly 10 percent.

Government purchases of goods and services as a proportion of GNP increased only slightly, from 20 to 22 percent. However, the proportion accounted for by the federal government fell sharply, from 13 to 8 percent (mainly the result of a decline in the relative weight of defense expenditures); whereas the state and local proportion rose sharply, from about 7 to 14 percent.

State and local governments accounted for more than 80 percent of total government purchases of goods and services for nondefense purposes

Figure 2: PUBLIC EXPENDITURES IN THE UNITED STATES AS  
PERCENT OF GNP, 1954 AND 1974 (billions)<sup>a/</sup>

	Amount <sup>a/</sup>		Percent of GNP	
	1954	1974	1954	1974
GNP	\$365	\$1,397	100.0	100.0
Total government expenditures <sup>b/</sup>	97	461	26.6	33.0
Federal	70	299	19.2	21.4
State and local	30	206	8.2	14.7
Components of federal expenditures <sup>c/</sup>				
Purchases of goods and services	47	116	12.9	8.3
Defense	41	79	11.2	5.7
Nondefense	6	38	1.6	2.7
Transfers to persons	12	114	3.3	8.2
Grants to state and local governments	3	44	0.8	3.1
Components of state and local expenditures <sup>c/</sup>				
Purchases of goods and services	27	192	7.4	13.7
Transfers to persons	3	20	0.8	1.4

<sup>a/</sup> Expressed in current dollars.

<sup>b/</sup> Federal grants to state and local governments are included in the federal and the state and local expenditures, but the duplication is eliminated in the combined total.

<sup>c/</sup> Omits several miscellaneous items.

Source: *Economic Report of the President* (Washington, D.C.: U.S. Government Printing Office, February 1975).

at both the beginning and the end of the period. It is the states and localities that are principally responsible for transforming tax dollars into domestic public services, not the federal government, as is commonly believed.

**Employment.** Data on government employment tell the same story. In 1974, governments of all kinds employed 14.3 million civilians, or 18 percent of workers in nonagricultural establishments in the United States. Eighty-one percent were state and local; 19 percent were federal. As Figure 3 (page 31) indicates, the increase in state and local government employment during the 1954–1974 period was nearly seven times that of the federal government and three times that of the private sector.

### REASONS FOR THE RISE IN THE COST OF STATE AND LOCAL GOVERNMENT

The almost sevenfold increase in state and local government expenditures between 1954 and 1974 was attributable to both an expansion of activity and an increase in the unit cost of goods and services purchased by government.

**Expansion of State and Local Activity.** Several factors contributed to this expansion.

There has simply been an increase in the number of people to be served. The total population rose by 31 percent, and the number of people living in urban areas (where demands for government services are highest) rose by some 48 percent.

The workload in traditional government services was increased by urban growth and its concomitants, such as increases in the number of automobiles, amounts of solid waste, and commission of crime. The postwar baby boom, in particular, created a wave of demand for education that moved from primary and secondary schools to colleges.

Rising affluence enabled governments to establish higher levels of service in existing functions. In education, for example, these took the form of foreign language training in elementary schools, preschool programs, remedial reading programs, and more teaching assistants. The demand for higher levels of service has been reinforced on the supply side by the tendency of some professional bureaucracies to increase service activities in

Figure 3: GOVERNMENT AND PRIVATE EMPLOYMENT  
IN THE UNITED STATES, 1954 AND 1974<sup>a/</sup> (millions)

	1954	1974	Percent Increase
Federal government	2.2	2.7	22.7
State and local government	4.6	11.6	152.2
Private sector	42.3	64.0	51.3
Total nonagricultural employment	49.0	78.3	59.8

<sup>a/</sup> Refers to wage and salary workers in nonagricultural establishments.

Source: *Economic Report of the President* (Washington, D.C.: U.S. Government Printing Office, February 1975).

health, mass transportation, recreation, housing, education, and other fields.

Transfer payments and other benefits to lower-income groups expanded to keep pace with rising living standards, inflation, and higher expectations of government services and benefits.

Finally, state and local government expanded into new fields, such as manpower development to provide special occupational training for young and older workers and pollution control and other environmental protection programs to meet emerging public needs and desires.

Figure 4 (page 33) presents a breakdown of expenditures on major government functions between 1954 and 1974. Education was by far the most costly function of state and local government, accounting for 34 percent of the total increase in costs.\* Public welfare accounted for less than 12 percent of the total increase. Expenditures classified as “Other” include both utilities and a large number of activities that although less costly

\*See memorandum by MARK SHEPHERD, JR., page 83.

can nevertheless have a significant impact on economic activity and the quality of life (e.g., planning, inspections, consumer affairs, landlord-tenant relations, and general government administration).

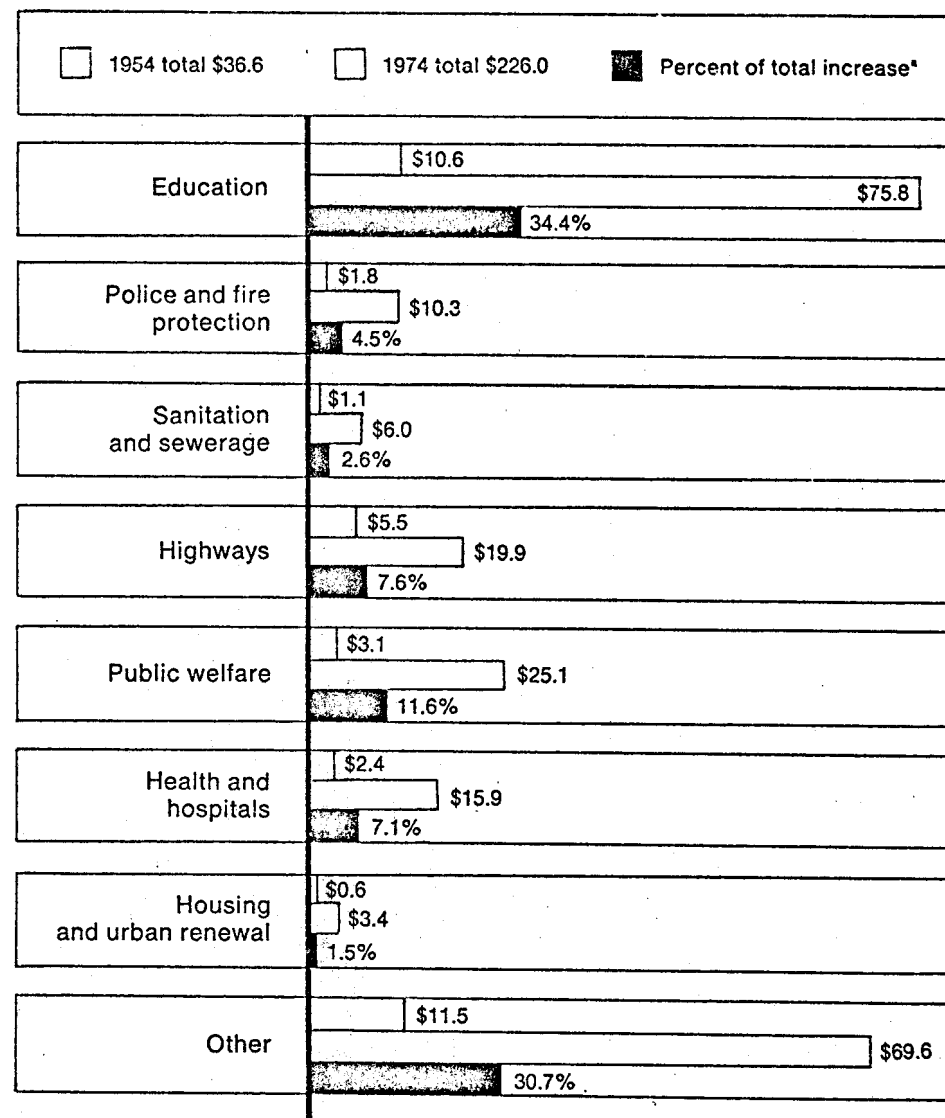
**Increase in the Price of Inputs.** In addition to the cost increase resulting from the growing volume of inputs, there was a rapid rise in the price paid for each unit of input. As Figure 5 (page 35) indicates, the rise in the price of a unit of input has been higher for state and local government than for any other economic sector. This results partially from increases in the price of goods and outside services purchased by government but principally from increased wages and fringe benefits for employees.

In the past twenty years, wage rates for state and local public employees have increased more rapidly than those of any other major employment group (see Figure 6, page 37). There are several reasons for this. Public employees' wages in some jurisdictions have been increased to achieve comparability with their counterparts in the private sector. The rapid expansion in public employment during the 1950s and 1960s led to higher salaries to attract labor from other sectors. The number of professional and technical positions in higher salary brackets increased. Public employees have been rapidly unionizing and increasing their economic and political strength.

Employee compensation also includes fringe benefits. Expenditures for pensions alone totaled \$5.9 billion in 1974, representing about 6 percent of total compensation to state and local government employees.<sup>2</sup> Those pension systems that are not fully funded face rapid cost increases in the future. Other benefits, including medical and life insurance, may be nearly equivalent to pension costs. If vacations and other compensated days off are counted, the total fringe benefit package represents a significantly higher proportion of total employee compensation.

Overall, the increase in the unit cost of state and local purchases was 152 percent from 1954 to 1974, compared with an 83 percent rise in consumer prices. Although this figure indicates how much more governments paid for a unit of input, it does not explain how much more was paid for a unit of public service because there is no overall measure of government output.

Figure 4: STATE AND LOCAL GOVERNMENT EXPENDITURES, SELECTED FUNCTIONS, 1954 AND 1974 (millions)



\* Percents may not add due to rounding.

Sources: Department of Commerce, Bureau of the Census, *Historical Statistics on Government and Government Finances* (annual); and *Governmental Finances in 1973-74* (Washington, D.C.: U.S. Government Printing Office, 1975).

2/"Social Welfare Expenditures, Fiscal Year 1974," *Social Security Bulletin*, January 1975, page 8.

## STRAIN ON STATE AND LOCAL REVENUE

To pay their rising costs, both state and local governments have increased their tax rates sharply. The ratio of state and local tax and nontax revenues (excluding federal grants-in-aid) to personal income rose from 8.9 percent in 1954 to 14.3 percent in 1974. In many areas, especially big cities with large poverty populations and shaky economies, the proportions were much higher. New York City's general expenditures, for example, were about 22.6 percent of its personal income in 1973. The strain is all the greater because state and local government revenues are less responsive than federal taxes to increases in income.

Tax increases are one of the most sensitive issues of state and local politics. Nevertheless, as long as rising national incomes could support both expanding levels of consumption per household and more costly state and local services, taxpayer protests remained within political bounds. In essence, taxpayers either desired or acquiesced in the diversion of more of their purchasing power to state and local government. However, with the decline in the purchasing power of after-tax consumer incomes that began in the early 1970s, taxpayer protests and revolts mounted to levels unprecedented in the postwar period. Faced with slackening or falling revenues, growing taxpayer resistance to higher taxes, and higher interest rates for municipal bonds, government administrators everywhere have been forced to look for ways to close the gap between revenues and expenditures.

Generally, the first response of government officials to these pressures is to find additional revenues. However, their efforts have been frustrated on all fronts. Not only do taxpayers resist higher tax rates, but increased taxes also entail the risk of driving middle- and upper-income residents and businesses out of hard-pressed jurisdictions, thereby further eroding the tax base. States are reluctant to expand local taxing authority. Both states and the federal government resist increases in grant assistance. Local officials are limited in their ability to strengthen the local tax base as a means of increasing revenue (although there is potential for more effective action by local governments to strengthen their economic activity). And although a full-employment economy would increase state and local revenues by an estimated \$25 to \$30 billion, the tools to stimulate general economic growth lie almost exclusively with the federal government. Finally, New York City's fiscal crisis has demonstrated the danger of chronic borrowing to cover local budget deficits.

Figure 5: INCREASE IN PRICES OF STATE AND LOCAL GOVERNMENT PURCHASES, COMPARED WITH OTHER ECONOMIC SECTORS, 1954-1974

<i>Item</i>	<i>Price Increase (percent)<sup>*/</sup></i>
State and local government purchases	152
Consumer goods and services	83
Private investment goods, total	91
Nonresidential structures	132

<sup>\*/</sup> GNP deflator for various sectors.

Source: *Economic Report of the President* (Washington, D.C.: U.S. Government Printing Office, February 1975).

The second response has usually been to cut government services or otherwise trim waste. Government officials and citizens have been forced to set priorities and eliminate marginally useful activities. Public-employee compensation, especially pensions, has become a target for attack. Cutting programs may be not only necessary but desirable in certain instances; it may well be that citizens' expectations of what government should provide have grown unrealistically or that some responsibilities assumed by government could be more satisfactorily met in other ways. In some instances, declines in the demand for public services have not been accompanied by commensurate reductions in staff. However, there is a limit to how drastically public services can be reduced without serious impact on the quality of life or without driving out citizens and businesses and thereby eroding the tax base. Moreover, cutbacks can work the greatest hardships on the politically weak and economically disadvantaged.

Only the third option, productivity improvement, offers a way of holding down costs without reducing the scope and quality of services.

For the present, reconciling the gap between revenues and expenditures may require a combination of all three options. But even if the revenue strain eases, state and local government productivity improvements, as we broadly define them to include quality and effectiveness as well as efficiency, offer one of the principal ways of improving overall economic well-being and the quality of life in the decades ahead.

## EVIDENCE OF PRODUCTIVITY TRENDS

Without accepting the popular notion that most of what governments do is unproductive and hence wasteful, it is possible to list a number of factors inherent in public agencies that militate against productivity.

There are few political or administrative incentives to improve productivity. Top officials tend to aim for standards of performance that will keep public complaints at a tolerable level while keeping peace with civil servants.

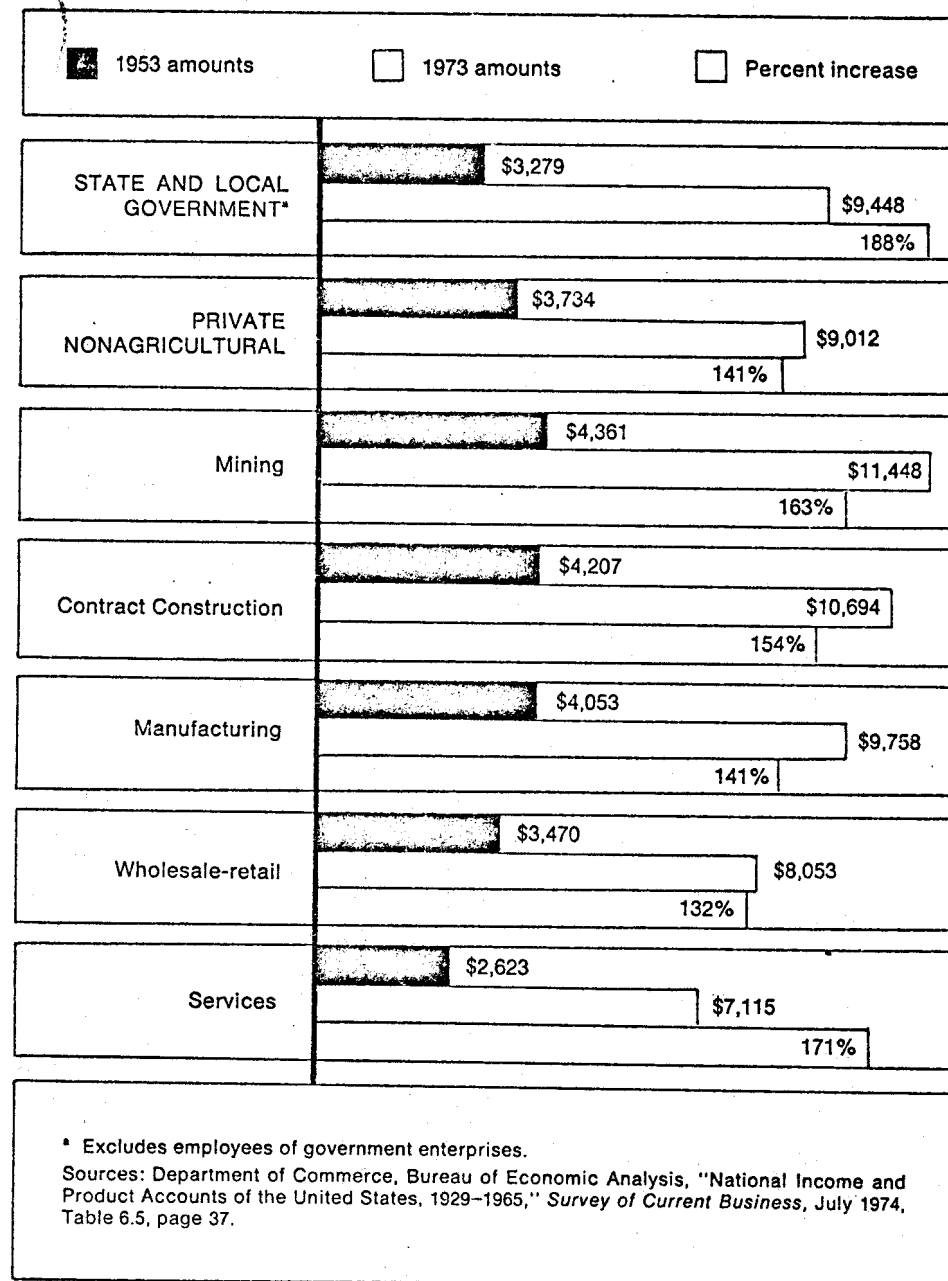
Government has no force analogous to the profit motive to hold down costs. On the contrary, one criterion of success for some government administrators and their bureaucracies, which in most cases are monopolies, is their ability to obtain budget increases and to enlarge their staffs and their scope of activities. There are, to be sure, other forces that bear on government, including voter reaction, taxpayer resistance, consumer complaints, and credit ratings in capital markets. But none of these forces produces a specific measure that precisely and continuously links the cost of operations to the output of service agencies.

The politics of state and local governments have been oriented more toward the awarding of jobs, franchises, and contracts than toward delivery of services. This is one of the reasons why line-item budgets, which emphasize number of employees, materials, and equipment used, continue to be more popular than program budgets, which focus on the objectives of public services.

It is widely believed that some civil service and merit systems, originally intended as instruments to protect against political abuse, have tended to degenerate into instruments for protecting mediocrity and weakening administrative control. This tendency may be strengthened by the increasing power of public-employee unions.

In addition, inferences about productivity trends can be drawn from the limited statistical data available. For example, although the number

Figure 6: INCREASES IN AVERAGE ANNUAL EARNINGS OF PUBLIC EMPLOYEES IN COMPARISON WITH OTHER ECONOMIC SECTORS, 1953-1973 (per full-time employee)



of state and local personnel increased by over 150 percent during the past two decades, there is no statistical evidence of commensurate increases in the quantity or quality of public services. A considerable amount of manpower has gone to make up for improvement of working conditions (decreased working hours, lighter workloads, and increased leave time). From 1953 to 1973, New York City's police force grew by 55 percent while the number of hours worked actually declined.<sup>3</sup>

Substantial differences in the costs and results of comparable services in different jurisdictions suggest disparities in productivity. Comparison of similar services furnished by private-sector agencies and public agencies usually reveals higher public-sector costs; where private-sector costs are higher, they are frequently set by businesses that are favored by government contracts. Similarly, expenditures per capita for different services vary greatly among cities; and after taking account of other reasons for differences, there remain strong implications of disparities in productivity.

Disparities occur not just because some poorly run jurisdictions register higher costs but also because others have achieved greater output and lower costs through the energy and imagination of public servants.

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3/Inferences about state and local government productivity trends can also be drawn from the following type of analysis. The amount of inputs to state and local government production (measured by purchases of goods and services in constant dollars) rose by 182 percent from 1954 to 1974. The number of urban residents served increased by about 48 percent during the same period (urban residents are the best single proxy measurement for overall state and local government workload because most public services are concentrated in urban areas). The amount of inputs per resident thereby rose by 92 percent. The increase can be accounted for by one or more of four factors: increased workload (e.g., the number of public school pupils increased by about 58 percent; higher densities and changing compositions of population may also create greater needs for public services), broader scope of services (e.g., addition of recreation programs for the elderly), improved service quality (e.g., training police officers to handle family disputes more effectively), and decreased productivity.

Unless the first three factors accounted for a 92 percent increase (almost a doubling) of inputs per capita, productivity must have declined. This inference is partially supported by several studies that indicate declining productivity of individual services in selected cities. It may also be noted that the real input per capita of the federal government fell by 24 percent over the twenty-year period, suggesting a rise in federal productivity. This is consistent with the findings of the federal government's study of its own productivity.

Nevertheless, it should be stressed that it is not presently possible to measure overall state and local government productivity directly because it is impossible to assess with available data changes in the scope, quality, and workload of all state and local services or the extent to which some government services affect economic and social conditions.

Throughout the public sector, there are dedicated and effective employees who carry out their responsibilities with excellence. In fact, a principal impediment to productivity in state and local government is that capable people and agencies have not been recognized, supported, and freed of the constraints that prevent them from exercising leadership.

Deteriorating urban conditions suggest but do not necessarily signify lower productivity in specific government services. There is a limit, after all, to government's responsibility and capability for resolving problems. Productivity might increase and yet not correct every urban ill. For example, police services may become more effective, but if the conditions that produce crime (such as unemployment, poverty, and family turmoil) worsen, crime may continue to increase.\*

Nevertheless, if public expenditures are increased to improve conditions and no improvement is perceived, we must ask whether the resources are being well used. Is there evidence, for example, that increased public expenditures have raised general health levels, affected recidivism among persons convicted of crime, checked the deterioration of large cities, or raised the quality of urban life in any substantial way? If not, are there alternative means of using those resources to achieve the conditions desired or for other purposes? Only when government efficiency and effectiveness have reached their highest possible levels and conditions are still not satisfactory can we conclude with assurance that government has reached the limits of its cost-effective contribution to improving the quality of life.\*\*

But in the end, concern about productivity and the evidence of its current status depend largely upon what people expect and feel they are getting from government. Public opinion polls indicate that a large majority of the American people do not think they get their money's worth from the taxes they pay, yet most people believe that state and local government *can* be well run. It is this gap between what people expect from government and what they believe it is delivering that ultimately defines public perceptions of government productivity. We conclude, similarly, that state and local government productivity on the average is lower than it could be, but we are also convinced that the talents and energies of public managers and employees, a wealth of useful techniques and other resources, and especially, more effective political action to push for improved government can close that gap or help to redefine the dimensions of public expectations.

\*See memorandum by CHARLES P. BOWEN, JR., page 84.

\*\*See memorandum by JAMES Q. RIORDAN, page 84.

# 3.

## Opportunities for Improving Productivity

IMPROVING GOVERNMENT PRODUCTIVITY ultimately requires greater incentive on the part of citizens, nongovernment groups, elected officials, professional managers, and public employees. In Chapter 4, we suggest approaches to increasing the overall motivation of government. In future policy statements, we intend to look in greater detail at the incentive structure of government.

However, the incentive to improve must be accompanied by, and interwoven with, the knowledge and ability to do so. There are four general areas of opportunity for improving state and local government productivity: management, the work force, technology and capital investment, and measurement.

### STRENGTHENING MANAGEMENT

The most promising route to greater productivity is more effective management. Public-sector managers, including top elected executives, chief administrative officers, and department heads and supervisors, face conditions that are different from those confronting managers in the private sector, including community politics, civil service restrictions, and a work force that is also a major political constituency. Nevertheless, these public

managers are responsible for establishing objectives, choosing programs, and assuring that policy is implemented effectively and efficiently. Their ability and, especially, their desire to do so are the keys to improvement.

The incentives for improved management have been weak in many jurisdictions. Elected officials generally have little understanding of administration and in any case tend to be more preoccupied with resolving political conflict and building support for the future. This lack of interest in administration among elected officials in turn affects the first ranks of professional managers, who tend to be cautious about attempted improvements that may have political repercussions for their elected superiors and hence for themselves. Thus, it is not surprising that motivation is also weak among managers at lower levels.

The first requirement for improved productivity, therefore, is increased incentives for managers to manage. This must start at the top, with the elected executive, but it will be dependent upon political forces in the community that push for improvement and hence make productivity a politically attractive concept for those seeking elective office. Incentives for professional managers can be increased by clearly linking the performance of their agencies to their own salaries, prospects for promotion, and reputations.

But although increased management incentives are essential, they are not sufficient. Even the many highly motivated managers in state and local government are limited in what they can accomplish by a management process and machinery that impede productivity in each of three principal phases: planning and budgeting, decision making, and implementation (principally line-agency operations).

**Planning and Budgeting.** Planning and budgeting are commonly assigned to separate staff agencies. But the two activities are closely related because the last step in the planning process is the allocation of resources, a major function of budgeting.

**Planning.** Efforts to improve productivity begin with planning that anticipates needs and identifies alternative courses of action for meeting them. In the United States, planning at the local level has long been identified with the physical aspects of urban development and with items that enter into capital budgets, such as buildings, highways and streets, water and sewer mains, schools, and hospitals. Over time, the increasing range of responsibilities given to state and local governments, particularly in the areas of social and economic development, created new sets of plan-



ning needs. A growing recognition of the interrelationships of government functions led to demands for more comprehensive planning that brings a wide variety of government programs into systems in order to ascertain how various activities complement or oppose each other.

In theory, the most important contribution of planners working with budget personnel is the analysis and evaluation that enables chief executives and legislators to deal more effectively with agency requests and political pressures for funds. In practice, things are somewhat different.

When planning was widely introduced at the local level a generation ago, it was heralded as a new branch of government to be divorced from politics and carried on by quasi-independent commissions of experts and impartial citizens. Many such commissions were created and continue today. But because they are unattached to legislatures or executives and, therefore, to the decision-making process, they lack political power and have little influence on decisions.

Most planning is done by professionals in particular functions; more than anyone else, they set the standards of adequacy for government services. Like most specialists, they tend to equate service improvements with larger budgets: more teachers for better education, more policemen for greater safety, and more doctors and hospitals for better health. Such conclusions are often incorrect, which suggests that functional planning assumptions need to be scrutinized closely by top managers and by the public. Over the last ten years, planners have begun to pay more attention to public preferences and to develop ways of soliciting them, and many professional fads and biases that contradict popular wisdom have run their course and been discarded. The opposite danger, however, is that programs may be initiated more to appease public demand for action than because of any expert belief that they will be effective.

Thus, there is a need both to link planning closely to operations and to establish a higher and more detached level of planning that can evaluate the biases of functional planners in assessing past policies and identifying future requirements. Both needs require appropriate participation by citizens and consumer groups, as well as the attention of elected officials and professional managers.

**Budgeting.** The budget process, where choices must be made about which functions and programs get which shares of revenues, is the most important focus of decision making at the highest levels. It is also a battleground for consumer groups who want more services; public employees who want more pay, administrators who want more resources for their

programs, and increasingly, taxpayers who want to hold down taxes. The budget may increase programs to meet expanding needs and eliminate them when they outlive their usefulness; furthermore, it may reward efficient departmental performance and penalize ineffective performance.

However, budgets are seldom used as instruments for allocating resources by rules of benefit-to-cost or other analysis. They are subject to many pressures. For most governments, the overriding issues are wages, fringe benefits, pensions, and other employee compensation, rather than programs and agency functions. Conventional budgeting tends to use rules of thumb such as keeping agencies on a rough parity with respect to appropriation increases (if the police department gets an increase this year, the fire department will be in line for one next year). In some jurisdictions, automatic increases are mandated for all agencies; consequently, there is usually little surplus (unless it comes through a state or federal grant) for the initiation of any new program or for experimentation or innovation that could improve productivity.

Poor budget practices also inhibit fiscal planning. If it is easier to obtain funds by borrowing than from taxes, there will be a tendency to crowd the capital budget with everything possible, including expense items. New York City, which pioneered the concept of capital and expense budgets, engaged in this practice; as a consequence, its debt soared to the point where its securities could not be marketed.

Program-performance budgeting, which flowered briefly in the 1950s and again in the 1960s under the name of *planning-program-budgeting systems* (PPBS), emphasized the definition of missions and objectives. It also stressed analysis of the means to accomplish them, selection of the most cost-effective approaches, and evaluation of the results in terms of unit costs, effects on program clientele, conformity with objectives, and possibilities of improvement. PPBS has been largely discarded by the federal government and has been adopted by only a few state and local governments. Its lack of success has been attributed to several factors, including the difficulty of establishing clear measures of performance, inadequate staff to undertake the analysis required, overselling by zealous proponents, and the failure of top officials to support it because they are generally more interested in expenditure control than in cost-effective allocation of resources among programs.

Nevertheless, program-performance budgeting still provides one of the few administrative mechanisms for compelling a systematic consideration of priorities, program accomplishment, and the weighing of accomplishment against cost. Appendix A describes one example of how

it encouraged a more careful consideration of the cost and impact of highway patrol in Pennsylvania by professional police administrators, elected legislators, and program analysts.

Program, performance, and line-item budgeting techniques can be combined to take advantage of the strengths of each. Related techniques include *zero-based budgeting*, which requires examination of existing programs as well as proposed additions, and *management by objective* (MBO) which attempts to compel examination of program purpose and its translation into specific and measurable targets. To be effective, such techniques must be backed up by accounting and reporting systems that can provide compatible cost and performance information.

**Decision Making.** Government policies and decisions tend to evolve through the planning and budgeting process, which sets the agenda for top decision makers. Yet, final policy decisions are usually taken without systematic analysis of various alternatives in terms of their likely costs and benefits.

Two categories of analysis can be distinguished, one having to do with policy or top-level decision making and the other with operations. Although the two overlap on many points, each involves different types of analytic expertise.

Policy analysts must weigh alternatives using facts that are frequently inadequate or hard to locate. However, data must be not only generated but also analyzed and presented to decision makers in a useful form.

The essence of decision analysis involves the technique of benefit-cost analysis; a ratio of benefits to costs of less than one raises a red flag for any course of action. Along with measurable benefits and costs, positive and negative effects that cannot readily be quantified must be taken into account, including environmental impact, political consequences, and administrative feasibility.

Analysis must also consider the degree of uncertainty involved in projecting the future because the value of projected benefits is diminished by uncertainty. One way of dealing with uncertainty is to calculate the probabilities of different outcomes. Another is simply to increase knowledge; lack of obtainable facts is an avoidable cause of uncertainty. Still another approach is to avoid commitments to large, expensive, and irreversible courses of action, thereby preserving flexibility in future decisions.

Educational preparation for policy analysis should include an appreciation of the values of systematic analysis and training in data sources, quantitative techniques (including the more commonly used mathematical

## ACCOUNTING FOR UNCERTAINTY

A study of water-supply needs for northern New Jersey and southern New York exemplifies different means of accounting for uncertainty.

The study used as a criterion a maximum .01 probability that water supplies would fall as much as 20 percent below projected needs in any one year. This implies building a dam capacity for contingencies that on the average will not occur more often than once in a century. Water supplied by facilities that will be used only once in a century is very expensive. This suggests the search for other, less expensive alternatives such as standby and desalination plants, hauling water in from other areas, or simple conservation measures.

tools), and decision analysis, not to mention the nurturing of good judgment and common sense.

Some state and local governments have improved their analytic capability, but most are still seriously understaffed and otherwise ill-equipped. In some cases, they fail to recognize the potential contributions of the analytic approach or tend to regard analysts as overly theoretical and insufficiently aware of the complexities of decision making in a political setting (indeed, such criticism may often be justified). In other cases, legislatures, tending to be jealous of chief executives, attempt to restrict them by refusing to appropriate funds for staff assistance.

Many state legislatures and county and city councils require more adequate staff assistance in analyzing both budget requests and proposed legislation. Most legislative bodies currently enact laws with little formal analysis of costs and benefits or of the available alternatives. Committee hearings rarely fill this need because they tend to produce spotty or biased information. One approach is to require that all bills be accompanied by a report that indicates goals and objectives, justification of need, procedures and costs of implementation, experience with similar policies in other jurisdictions, criteria or measures by which accomplishment should be evaluated, and responsibility and procedures for evaluation.

By assessing plans and projects formulated by seldom-dispassionate departmental advocates, skillful analysis can overcome some of the pres-

asures of the political milieu and even achieve political weight in its own right. Few political decision makers care to risk going against the facts, although there may be differences of opinion about the facts and what they imply.

**Managing the Line Agencies.** Most public agencies sincerely profess to serve the public, but the realities of the administrative process militate heavily against productivity. The principal influence is continual political pressure, which weighs in two directions. On the one hand, managers hesitate to undertake risky innovations for fear of laying themselves open to criticism in the future. On the other hand, political pressure frequently induces them to undertake courses of action that have small chance of succeeding and to maintain them even after they have demonstrably failed.

Public agencies tend to resist productivity-oriented innovations that require extra effort and disturb traditional work routines. Those who advocate change are often regarded with hostility or ignored.

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## RESISTANCE TO CHANGE

Inglewood, California, has used one-man refuse trucks for more than a decade at significantly reduced cost and with fewer injuries and greater satisfaction for personnel.

Informed of the one-man trucks, the sanitation director in an eastern city using four men to a truck said he did not believe it. Having confirmed that they were in use, he opined that Inglewood's streets and contours were different from his city's. Convinced that conditions in both places were generally the same, he lamented that his constituents would never accept the lower level of service. Persuaded that the levels of service were equal, he explained that the sanitation men would not accept a faster pace and harder work conditions. Told that the Inglewood sanitation men prefer the system because they set their own pace and suffer fewer injuries caused by careless co-workers, the director prophesied that the city council would never agree to such a large cutback in manpower. Informed of Inglewood's career development plan to move sanitation men into other city departments, the director pointed out he was responsible only for sanitation.

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In theory, line agencies simply carry out functions and programs that are established by either constitutional and statutory provisions or decisions of policy makers; in practice, they play a large role in determining those policies and their administration. Protected by civil service tenure, middle-level administrators can in effect veto policy by controlling information and access and by simply not implementing or enforcing policies. By selectively magnifying the enforcement of certain policies, they can aggravate constituencies and cause political embarrassment for elected officials.

Civil service systems, conceived to minimize political interference, also limit the power of management to reward superior performance through promotion and salary increases and to penalize poor performance through pay cuts or discharges.

Many agencies consciously fight for independence from central controls. For example, the professional bureaucracies (such as police, education, and health) can muster successful public protest campaigns against "political interference" by top executives in matters pertaining to evaluation of needs, assignment and promotion of personnel, and operating routines.

Being insulated both from any pressure akin to the profit motive and from the need to be reelected, some public administrators become increasingly unresponsive to citizens' needs and impervious to review and change. Bureaucratic rules originally established to ensure regular and efficient operation tend to be used to protect personnel from evaluation according to more relevant standards of performance. The problem is exacerbated by an incentive structure that imposes heavy penalties for failure but little reward for superior performance.

**Chronic deficiencies in line-agency management.** A number of deficiencies arising from these administrative conditions directly impede productivity (although the degree to which they are manifested varies greatly, from jurisdictions with poor records to those that have achieved a high level of performance).

*Weak agency management and lackadaisical supervision.* Many top administrators are chosen for service or contributions to the party in power. Others are selected according to their professional qualifications; for example, health departments are commonly headed by medical doctors, police departments by policemen, engineering departments by engineers, and education departments by educators. Executives selected in either manner rarely have formal training in management and may have little or no management experience or ability.

*Inefficient central controls.* Because of the difficulty of imposing direct control from the top, chief executives confronted with the necessity of economizing tend to rely on such measures as niggling line-item budget controls, job freezes, and purchasing restrictions, rather than determining ways to improve performance.

*Inefficient personnel methods.* The ineffective organization of personnel, low work standards, and frequently, ingrained featherbedding combine to form inefficient and costly personnel practices.

*Excessively detailed regulations and procedural routines.* Many of these have been installed over the years to prevent repetition of politically costly scandals. Accordingly, even where such precautions notably deter productivity, they continue to be tolerated.

*Ineffective communication within the agency and between line agencies and the chief executive.* Jealousy over administrative prerogatives or sheer inertia inhibits communication, especially outside regular hierarchical channels.

*Weak middle management.* A common reason for weak middle management is closed systems of promotion based on examinations that frequently have little to do with administrative capacity or experience.

*Lack of regard for convenience of clientele.* This occurs in scheduling hours for health clinics and other service agencies that conflict with clients' working hours, delays in issuing permits, and failure to respond to complaints. Attempts to counter such tendencies include decentralization of services and other techniques that bring operating agencies closer to citizen-consumers.

*Petty and not-so-petty graft.* The most common form of graft involves the withholding of service or granting of special service by public servants pending illicit payment by the citizen-consumer. Another type involves collusion among public employees; for example, a supervisor permits a worker to build up overtime shortly before he retires in order to increase the size of his pension.

*Lack of awareness or failure to adopt technologies that have been successful.* A few agencies have developed a tradition of technological innovation, but most display little interest in new techniques.

There are no shortcuts to correcting such deficiencies. The principal requirement is the will of top managers to use the knowledge and the many resources and techniques already available to improve administration. In some instances, however, specialized assistance may be required.

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## EXAMPLES OF IMPROVING EFFICIENCY

Opportunities for improving efficiency in line-agency operations are almost infinite.

The system of deploying snow plows in a large city has been improved by a strategy that classified highways and streets so that they could be cleared in the order of their importance to the restoration of traffic flow, assigned vehicles to routes according to the established priorities, and parked vehicles at specified deployment points whenever snowfalls were forecast.

Costs of maintaining a municipally owned automobile fleet were analyzed and found to be 30 to 50 percent higher than the cost of leasing equivalent vehicles. This finding led to an experimental leasing program and measures designed to raise productivity in the city's maintenance shops, which were found to be responsible for part of the high costs.

A program of alerting police officers in advance of changes in scheduled court appearances helped to eliminate unnecessary appearances for arresting officers. (This program reported a potential annual savings in the time of arresting officers of 200 man years.)

A study of the lifetime costs of sanitation and fire trucks resulted in a policy of shorter-term replacement to reduce maintenance costs and the amount of time vehicles were out of service.

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**Analysis in line agencies.** In addition to the need for policy analysis, there is a need for analysis of management and programs in operation in two principal areas.

*Effectiveness of organization and communications.* This concerns the relationship between the functions performed by the agency and its organizational structure, the balance between responsibility and delegation of authority, the flow of intra-agency communication, the quality of supervision at various levels, internal personnel relations and morale, and related organizational questions. Analysis in these areas requires skills from a range of disciplines, including business and public administration and the behavioral sciences.

## USE OF ANALYTIC TOOLS

The application of more sophisticated analytic tools makes it possible to optimize particular objectives in certain types of decisions.

For example, linear programming techniques can determine where to place fire stations in order to minimize the average time required to respond to alarms in an area with a given number of fire stations. Alternatively, given the average response time desired, the number of fire stations required can be specified. Similarly, programming can determine the most efficient garbage collection routes, optimum deployment of police cars, and other means to deploy resources more efficiently.

*Management engineering.* This includes tools for improving the technical efficiency of production processes and techniques for reducing costs. Such analysis requires industrial engineering skills, supplemented by other technical specialties, such as cost accounting and statistics.

Management engineering typically focuses on a number of factors: detailed definition of objectives and tasks to be performed, identification of resources needed (people with particular skills, equipment, facilities, and so forth), design of organization procedure, allocation of resources by time and place (deployment of personnel to match work force to workload, scheduling of activities to minimize time requirements and assure smooth work flow, assignment of tasks to match responsibilities to personnel abilities and to assure even distribution of work, inventory control for timely delivery and efficient use of materials), mechanisms for control and monitoring of activity, and evaluation of accomplishment.<sup>1</sup>

In addition to possessing the necessary technical skills, it is essential that the effective analyst understand the political and administrative milieu in which government agencies function and consider the strategy and process by which the inevitable roadblocks to change can be overcome and improvements actually implemented. It is important to remember that

mathematical modeling cannot fully account for the complexity of social and political phenomena and that analysis undertaken without attention to the practical problems of implementation will be wasted or, worse, counterproductive.

**Developing Management Personnel.** In addition to more effective incentives and techniques, strengthening management depends upon the quality of managers themselves. There is no apparent dearth of potential managers available to state and local agencies; lack of capable managers and analytic staff on the job lies rather in the failure of agencies to find and develop them. Steps that can be taken include paying competitive salaries to attract top managers from business, other governments, and the non-profit sector; improving training in administration for managers from professional fields such as engineering, health, and police; giving more weight to managerial potential in promotion from the ranks (the principal source of most government managers) and more training for those newly recruited into supervisory positions; and developing entry-level management training, analytic, and staff positions and career paths to take advantage of the increasing number of graduates from university programs in public management.

## WORK FORCE

Although government operations are labor-intensive, the prospects for substantial replacement of manpower with capital equipment do not appear to be as great as they have been in other economic activities, such as agriculture. Consequently, productivity gains in government will depend heavily on better use of the talents and energies of its employees, which is principally a management responsibility.

The predominant force affecting the disposition of workers in government is the growth of public-employee unions. The political influence of government workers has increased as their numbers have grown in proportion to the voting population and as they have become better organized. Public employees are also exercising increasing influence directly on the management of government through collective bargaining.

Public-sector collective bargaining is still in the formative stages. The procedures and traditions that are established now will determine whether future labor-management relations enhance productivity or impede it to the detriment of both employees and the public. Timely action is all the

<sup>1</sup>/See Appendix B, "Examples of Improvement in Line-Agency Operations."

more important because unions are still growing, principally by enlisting employees already on the payroll; in later years, they may seek to increase personnel requirements or more strenuously resist reductions in force that would shrink their membership. Elected officials and top managers need to acquire and exercise both the understanding and the professional expertise in labor relations necessary to protect the interests of both the public and the employees. Several public-interest groups have recognized this need by establishing the Labor-Management Relations Service (based in Washington, D.C.) to provide local government officials across the country with information and education on the rapid developments occurring in public-sector labor relations.

For better or worse, collective bargaining may erode or supplant parts of traditional civil service systems. Meanwhile, however, civil service systems need to be scrutinized for evidence of counterproductive tendencies. There is evidence that some systems, in an effort to formalize the presumed principle of merit and minimize political influence, have instead reinforced mediocrity and otherwise impeded productivity.

In addition, there is the question of how the talents and energies of workers can be more productively applied to ongoing activities so that both the employee and the public will benefit. One simple approach is more extensive use of conventional incentive techniques (such as work standards and bonus payments) that have long been used in business. Such techniques may be of limited utility, however, in those functions where management has little direct control over service delivery at the crucial point of contact between government and citizens. In many activities, the critical individual is the one who delivers services or otherwise represents government directly: the policeman, the teacher, the physician or nurse, the caseworker. No policy directives or management controls can incorporate the subtlety and detail needed to guide a policeman in dealing with ambiguous or delicate situations or a teacher trying to respond to differing student needs and problems.

Experiments in the private sector suggest that such approaches as the redesign of jobs and increased employee participation in the management process may, to a clearly limited extent, improve productivity while increasing employee satisfaction. It is uncertain how applicable these experiments are to government. But it is clear that the organization and management of public services should recognize and account for the high degree of responsibility and independence of workers in key functions.

The Committee intends to address these and related issues in a subsequent policy statement.

## TECHNOLOGY AND CAPITAL INVESTMENT

Two major factors in raising the productivity of the private sector have been technological advances (not just in hardware but in improved knowledge and methods as well) and increases in the ratio of capital to labor (more equipment per worker).

Technology has had less impact in the public sector. Most government agencies are reluctant to experiment with new techniques and procedures. In many cases, experimentation with new methods and tools or with new types of equipment has failed or has far exceeded projected costs.

Because the state and local government market is poorly understood and the requirements of government agencies vary in size and other characteristics, private firms devote relatively little time and money to research and development of new products for the public sector.

A notable exception has been the attention given to computers, which have had several advantages. Because they are standard products with a wide variety of applications in both the public and the private sectors, computers could be immediately adapted to government operations. They are also aggressively marketed. Nevertheless, many jurisdictions still lag behind in even the more common uses of computers, especially data handling, which constitutes a large proportion of routine government operations. Governments that are too small to operate a computer economically could explore the use of time-sharing arrangements with other governments or computer firms. Numerous opportunities remain for improving efficiency through computer operations, for example, in health services and welfare administration.

However, most public technology suffers from the lack of such advantages and requires more conscious development by public officials themselves. Greater effort is required for identifying and communicating their needs to potential suppliers of technologies, creating greater awareness of new technologies already available, and providing the funds and staff for investigating, adapting, and installing new machinery and equipment.

In order to help overcome such obstacles, the International City Management Association and other public-interest groups sponsored, with federal assistance, the creation of Public Technology, Inc. PTI was charged with stimulating the development of new technology for the public sector, disseminating information about its findings, and encouraging the adoption of technology. Its initial emphasis on hard technology has expanded to include soft technology or systems engineering, reflecting both the diffi-

culty of hardware application to government services and the increasing stress on responding to needs identified by local administrators.

Interest in the more dramatic examples of technological application should not divert administrators from developing the potential for better management of the maintenance and replacement of standard equipment and of the design and construction of new facilities. Government agencies use a wide range of technology, including standard office equipment,

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## TECHNOLOGICAL APPLICATIONS IN THE PUBLIC SECTOR

**Rapid Water.** The well-known case of rapid water for fire fighting illustrates the difficulties of getting acceptance for new processes from government bureaucracies and of inducing industry to respond to a demonstrated need. New York City Rand Institute technicians suggested to the city's fire department that the addition of a polymer, which had been discovered sometime previously but never utilized for this purpose, could reduce the friction of water flowing through a fire hose and thereby increase the volume of water delivered by as much as 50 to 70 percent. A substantial effort was required to interest fire officials, but the more surprising problem was the reluctance of several firms approached to undertake the development. After the product was available, it took the fire department several years to begin equipping its pumpers with equipment to utilize the technology.

**School Building Design.** A joint venture by several California school districts, funded by Educational Facilities Laboratories, Inc., to improve school construction resulted in a better, lower-cost product that has been widely emulated in the United States.

The group first put together a large market by enlisting a score of schools planning to build new facilities. Performance specifications for building components, based on careful surveys, were prepared for heating, ventilation, and cooling systems; ceiling-lighting systems; and division of interior space. Bids were invited from manufacturers of products that would meet these specifications, with the aggregated market being the prize for winners.

automotive vehicles, and costly construction equipment. The federal government's study of its own productivity determined that many government administrators, more accustomed to dealing with labor-intensive than with technology-intensive operations, miss opportunities for cost savings and productivity improvements through more skillful investment and management of capital equipment and planning for the construction of major facilities. Too often, new facilities are planned without taking into consideration the costs involved in operating them or the potential for minimizing operating and maintenance costs through better design. Such opportunities are abundantly available in states and localities.

## MEASURING GOVERNMENT ACTIVITIES

The purpose of quantitative measurement is to increase precision in assessing effectiveness and efficiency. Too often, however, attempts to tack numbers onto activities that do not lend themselves to quantification create confusion and misunderstanding. Moreover, there is always the risk that data will be distorted. For example, refuse can be watered down to increase tonnage; crime figures can be doctored upward to demonstrate the need for higher budgets or downward to show improved performance; low base rates can be established to magnify future improvements. Taken together, however, a series of appropriate measures can aid professional judgment and public understanding of how performance compares with an established standard of achievement, with past performance levels of the same agency, and with performance levels of other jurisdictions and private agencies.

Some services can be easily quantified, such as tons of refuse collected and miles of streets swept. However, many public services cannot be neatly packaged and quantitatively measured in all aspects. Police services exemplify such measurement difficulties. Crime rates are an unsatisfactory index of police effectiveness in deterring crime because the propensity toward crime also depends upon age levels, economic circumstances, and other demographic factors over which police departments have no control. The number of so-called quality arrests (those that result in indictments or convictions) is more meaningful than the total number of arrests but still provides only a partial measure of effectiveness. The number of miles patrolled is primarily a measure of workload and may or may not contribute to effectiveness.

Similarly, productivity in education is difficult to measure both be-



cause many of the goals of education are intangible and because complex outside factors come into play. A decline in reading scores does not necessarily indicate a drop in the productivity of public schools; it might also reflect a change in the composition of the school population. However, a sustained rise in reading scores does not necessarily indicate better teaching; it might result from increased enrollment of students from family backgrounds that stimulate learning.

Three types of measures can assist managers in improving productivity.

**General Social Conditions.** Unemployment, income levels, health standards, environmental conditions, and other social indicators are useful guides in general planning and evaluation, even though they do not necessarily reflect the consequences of government action exclusively. Interest in social indicators has grown partly as an alternative or a supplement to the heavy reliance on measures of purely economic well-being (especially GNP), which do not adequately account for other public goals or activities relating to the quality of life.

**Program Effectiveness.** Measures can help to assess the direct and intermediate results of agency programs; for example, the performance of pupils on standardized tests and the condition of streets (as indicated by the absence of potholes). In some cases, such indicators come as close as one can get to measuring actual success in meeting ultimate objectives; for example, the number of licenses issued is one ultimate and easily measurable objective of a motor vehicle department. In other cases, they are only surrogate indicators of progress toward ultimate objectives; for example, teacher-pupil ratios are not indicators of overall education productivity; they reflect a workload that is presumed to have some bearing on teaching effectiveness.

Survey or polling techniques can provide managers with useful information for assessing citizen satisfaction with services, determining the profile of service users, uncovering complaints that ordinarily would not emerge, and identifying future service needs. For example, the orientation of one city recreation program was changed from team sports to individual craft activities on the basis of a user-preference survey. Police administrators have used so-called victimization surveys of the general population to gather more accurate information than is provided by conventional crime reports on crime incidence, public feelings of security, and confidence in the police force.

**Program Efficiency.** Numerous quantitative indicators can provide partial information on agency activity or workload; examples include numbers of lines typed, inspections completed, cases handled, and applications processed. Such measures, when calculated on an hourly or dollar basis and controlled for quality, can provide information that is useful to managers in assessing agency efficiency. Typical efficiency measures include physical units of output per unit of labor (tons of refuse collected per manhour), physical units of output per dollar of expenditure (tons of refuse collected per dollar expended on refuse collection), throughput time (hours required to process a request for a plumbing license), downtime (percent of time that police cars are out of operation because of repairs), and capacity utilization (percent of total potential computer time actually used).

Data can also be used to compare dollar expenditures or personnel employed on a per capita or per user basis for similar functions in different jurisdictions (such as policemen per 100,000 population or dollars spent per student). Although large differences in these figures may result from factors other than productivity (such as differences in employee compensation, levels of service provided, or environmental conditions), they raise meaningful questions for further analysis.

To be useful, information on government performance must be readily available and closely linked to decision makers through usable information systems (which often can be computerized) and the budget process. (See Appendix C, "Management Information System Development and Application.")



# 4.

## Strengthening Forces That Can Motivate Government Productivity

FAILURE TO EXPLOIT the many opportunities for improving productivity is not so much the fault of any public official or worker as it is the result of a political and administrative incentive structure that militates against effective and efficient performance. The responsibility for altering this structure to increase motivation for productivity depends largely on more effective pressure from the citizens who elect public officials, pay taxes, and consume public services. However, voter reaction combines with, and is influenced by, other forces and mechanisms that can induce better administration of public programs. These forces include formal mechanisms for evaluating performance and holding officials accountable, competition from other public and private agencies that aspire to perform the same service, and productivity impetus from outside groups that can muster political pressure or supply expertise.

### FORMAL MECHANISMS FOR EVALUATING SERVICES

The first line of defense against government inefficiency and misfeasance is the power to investigate and expose. Such powers are vested in legislative bodies and in officials formally responsible to legislatures or elected directly by the public.

**Auditing Agencies.** One traditional check on the performance of government agencies is the external audit. Most state governments and many of the larger municipalities have independently elected comptrollers or auditors responsible for protecting the public against abuses by elected officials or other administrators. State governments also have the power to impose accounting and budgeting requirements on their municipalities and to perform audits of municipal accounts (or require audits by private certified public accountants). However, there are several important deficiencies in the audit function as it is ordinarily practiced.

Historically, auditors have concentrated on public financial accounts and on the legality and propriety of public expenditures rather than on program effectiveness and the functional efficiency of government programs. But even so, they frequently fail to check even the more common forms of political finagling, such as manipulating contracts toward favored bidders. Many such officers spend major effort on the administrative function of preaudit (certifying vouchers for payment) instead of evaluating the activities and performance for which expenditures are made.

Many auditing officers are responsible only to the general public, which has no means of holding them accountable except the power to vote them out of office. Some elected auditors exploit their offices for political purposes, and although this tendency is inevitable in a political system, it can be carried to lengths that damage the credibility of the audit function. The states generally make only cursory audits of municipalities, and these are frequently years late.

These deficiencies suggest various kinds of administrative reforms, most of which have ample precedent at the federal or state and local levels.

Over the years, the U.S. General Accounting Office (the auditor for the federal government) has concentrated increasingly on the effectiveness of government operations and the accomplishment of objectives. GAO emphasizes three elements of government audit: financial and compliance requirements, economy and efficiency, and program results (commonly referred to as *performance auditing*).<sup>1</sup>

At the state and local government level, effective performance auditing would require better standards and evaluative criteria than now exist.

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1/Comptroller General of the United States, *Standards for Audit of Governmental Organizations, Programs, Activities and Functions* (Washington, D.C.: U.S. General Accounting Office, 1972).

An even more serious impediment is the lack of personnel with the skills required for a competent and impartial performance evaluation. GAO, in cooperation with the International City Management Association, undertook a pilot effort to apply the concept of performance auditing in thirteen local governments. They have identified some ways in which the performance audit process needs to be modified to make it responsive to the needs of local governments.

Public auditors should be responsible to an agency, ordinarily the legislature, with power to bring pressure for improvement. The comptroller general of the United States and GAO, for example, are responsible primarily to Congress, and many of their investigations are undertaken upon specific congressional requests.

In principle, the auditing officer should be responsible to the legislature (as is the case in some states), but his reports as a rule should be made public; he should not be muzzled by a legislative majority. What is needed is a balance of forces that, on the one hand, will restrain the auditing officer from speaking irresponsibly and using his office to build a political base and, on the other hand, will ensure an effective and professional assessment of the performance by the executive branch.

However, the function of the auditing officer is limited. For example, it is not broad enough to protect citizens from incursions on their rights or from abuse or undue deprivation by public agencies or to deal with the day-to-day impact of agency operations on neighborhoods and individuals.

**Performance Evaluation with Political Impact.** A principal weakness in state and local political systems is the absence of any institution that can impartially assess government performance free from the direct pressures of partisan politics yet with the necessary public visibility and prestige to create incentives for improvement. An expanded audit function may be a partial remedy, but as long as auditing is a part of government, it must maintain a strict professionalism that limits its ability to build on public support to advocate change. Otherwise, it risks becoming a political vehicle for elected officials, who are hardly disinterested in public perceptions of government performance. Private good-government groups, on the other hand, generally lack sufficient and independent financing that frees professional staff from the need to cater to the special-interest groups that sponsor them.

What is needed are independent institutions that can command both public attention and public respect and that have assured sources of funds and professional capability to assess government performance regularly,

systematically, and publicly. Such qualities are, of course, difficult to combine in a single institution. One possibility is joint funding by government and private organizations. Another would be the creation by state or federal law of a quasi-public corporation either to undertake such work or to provide public funds to organizations that can.

The purpose of such an institution would be the continuous evaluation of government performance, employing analytic techniques of measurement and evaluation, as a means of giving recognition to superior performance and of exposing inadequate performance. One of its activities, for example, would be to publicize the absence of performance data in such functions as police, health, and sanitation departments and to demonstrate the potential for improvement by actually developing and analyzing performance data. Another activity would be to develop and publicize comparative data on the cost and accomplishment of similar functions in different jurisdictions.

## PROMOTING COMPETITION AND CONSUMER CHOICE

The monopolistic character of most public-service agencies is often cited as a main reason for their lack of interest in productivity. The inefficiency of municipal services cannot be entirely accounted for by ineffective mayors, managers, workers, unions, or labor leaders; it is in large measure a natural consequence of a monopoly system.

Even where similar services can be purchased from private organizations, the tax-supported public agency still has the advantage of providing its services without direct charge. For example, even when parents enroll their children in private schools because of relative dissatisfaction with public schools, they continue to finance public education through taxes, and the public system does not suffer a loss of revenue along with the loss of pupils.

Traditional public administration theory correctly points to overlapping or duplicate functions as possible sources of inefficiency; however, for some activities, the competition that arises from providing a choice of services may produce productivity gains that more than compensate for the possible diseconomies of operating two or more organizations that provide similar services.

**Service Competition.** Competition can be enhanced in several ways. Private suppliers can be allowed to compete with government agencies on reasonably equal terms. This alternative may be applied to certain government enterprises, a notable example being the Postal Service. In many cases, private carriers undertake functions similar to those performed by the U.S. Postal Service with greater productivity for reasons traceable to clear differences in management and operating procedures.

Another technique that has been tested, with mixed results, is to provide clients with vouchers or other forms of purchasing power so that they may choose among suppliers, which may be public or private agencies (e.g., rent supplements that allow low-income families to rent from private landlords, as an alternative to public housing).

Still another means of extending consumer choice and realizing benefits of competition may be intragovernmental competition. Government agencies frequently compete among themselves, and in some circumstances, such competition may be desirable. For example, a school district may offer a choice among elementary schools rather than requiring pupils to attend a particular school. Alternatives to public services can also be offered by the large nonprofit sector, which can meet the desires of special constituencies in recreation, health, education, research, and other areas. However, nonprofit organizations should apply the same practices for improving productivity that we are suggesting for government.

**Contracting Services.** Government agencies may contract for the performance of tax-financed services (which otherwise would be performed in-house) with either public agencies or private organizations.

Contracting with private firms has been most successful in those operations that have clearly measurable outputs, such as refuse collection, construction, food service operations, transportation services, street cleaning and repair, snow removal, and maintenance services. Some jurisdictions, for example, have discovered that the food service operations in educational institutions, transportation for public schools, and even maintenance for public buildings may be more cheaply and in some cases more effectively provided by private companies that specialize in service operations.

There are several possible advantages to choosing this option. Contracts with large producers may enable economies of scale to be realized by spreading production over a larger number of units than the contracting jurisdiction requires. Contracting may also enable governments to avoid

legally imposed restrictive controls (budgetary, personnel, and other) that reduce administrative flexibility. Economies may also be realized where private-sector salaries and/or fringe benefits are lower than those of government workers.

Contracting governments can also benefit from the competition among would-be suppliers and from the incentive of the profit motive to improve service efficiency and quality. In some instances, contracting with several smaller businesses for the same service may enhance competition and take advantage of the more efficient operations of contractors not burdened by high administrative overhead. One possibility, for example, may be to contract with two or more refuse collectors to service different sectors of the same jurisdiction.

Moreover, the process of switching from one service organization to another may improve performance by permitting old functions and outmoded procedures to be dropped or updated and by compelling a reexamination of purpose and strategy. The knowledge that another organization could perform the service may also provide incentives to the current service organization.

However, contracting also has its disadvantages. First, there is the problem of evaluation and quality control. Government agencies must themselves undertake to control the quality of services whether they are produced by government or nongovernment agencies. If the quantity or quality of the product is not easily measurable, control necessitates product inspections, investigations of complaints, and monitoring of production processes. Most government agencies are required by law to award contracts to the lowest bidder, even if the low-bidding firm is perceived as less effective than other firms. One answer to this problem is highly detailed contract specifications that establish both efficiency and quality standards, although care must be taken that such specifications do not create rigidities that impede efficient operation.

A second major problem concerns manipulation and graft. Government contracts are still a primary source of political patronage, and firms that seek government contracts have been a principal source of political financing. Revelations of corruption in government contracting have generated a public suspicion that at least matches public distrust of government bureaucracies. Governments that are inefficient or corrupt in providing public services will almost invariably manifest the same tendencies in administering contracts.

However, when all factors are taken into consideration, it is clear that contracting and competition among agencies, if judiciously used, can be

a potent force in expanding the scope and content of government services and in checking potential abuses of government bureaucracies.

## SUPPORT FOR PRODUCTIVITY FROM OUTSIDE GROUPS

Ultimately, greater productivity in government will depend on the effectiveness of political pressure from voters, taxpayers, and consumers of government services. A number of groups in the political system can bring pressure to bear on government or otherwise offer support and expertise that can improve productivity.

**Public-Interest and Government-Reform Groups.** A number of research and reform groups over the years have compiled an impressive record of inducing improvement in government operations.

*Local private research institutions.* New York's Bureau of Municipal Research, for example, developed much of the apparatus of modern municipal government and stimulated the creation of numerous bureaus in other cities.

*Taxpayers' associations.* The Pennsylvania Economy League has been notable for the number and depth of its studies of policy issues and operations of Pennsylvania state and local governments.

*National research and advocacy groups.* The National Municipal League has promoted and been largely responsible for the success of the city-manager movement (40 percent of all American municipalities now use the professional manager form of government); developed model charters for county and municipal governments and model constitutions for state governments; served as a clearinghouse for information on developments in municipal planning, finance, and administration; and sponsored research on municipal policy issues.

*League of Women Voters.* This organization has provided effective analysis of issues and pushed for reforms at the national, state, and local levels.

In addition, emerging forces include a variety of citizen organizations that focus on local issues, nationally oriented groups such as John Gardner's Common Cause and Ralph Nader's Public Citizen that focus on improving government processes (both groups have more recently supported establishment of associated organizations at the state and local levels), and new nonprofit organizations that emphasize research and assistance to governments. An example in the latter category is the Fund for the City of New

York, established in 1968 by the Ford Foundation. The fund has chosen in recent years to concentrate on such projects as the development and utilization of performance measures in sanitation and municipal hospitals.

Different groups employ different strategies. One approach is an adversary strategy that analyzes and criticizes government policies and operations on the basis of data and observations assembled from the outside. Even at this level, opportunities for useful work are numerous.

Other groups attempt to cooperate with and assist government agencies, working from the inside and providing technical expertise. Here, success requires sources of expertise and receptivity on the part of the management and staff of the agency involved.

**Business Groups.** There are few public issues of greater importance to the local business community than improving the productivity of government. Traditionally, the business community has been a strong political force in states and localities across the country. In recent years, however, its influence has declined as emerging groups such as consumers, women, minorities, and neighborhood and civic associations have developed strength. We believe that businessmen should assert their leadership in the improvement of their communities. They need to reassess their own roles in relation to changed political conditions and to propose creative solutions to which they can lend both their influence and their expertise.

Many state and local chambers of commerce and other business groups such as the Economic Development Council of New York City have pushed for government reform and provided expertise to assist in administrative improvement. In North Carolina, the Governor's Efficiency Study Commission contributed 34,000 hours of private-sector executive time that identified a potential annual savings of \$67 million and recommended numerous other measures for improving operations, 85 percent of which could be implemented directly by executive order.

In general, direct technical assistance supplied gratis by business is likely to be most useful in limited special situations that are akin to business operations. Business firms as a class can be most effective in improving the quality of state and local government by supporting professionally staffed research organizations and by active involvement and participation in state and local affairs.

**Other Outside Groups.** There are many other groups that can support actions to increase state and local government productivity. Organized labor, both public and private, is in a particularly advantageous

position to press for productivity measures that can reduce costs without impairing service. Public employees are a prime source of information on productivity improvement; when combined with the research capabilities and organizational understanding of their unions, such knowledge could be an invaluable contribution to productivity improvement.

The mass media are the source of most public information about government operations. Informed interpretive reporting is essential to stimulating greater awareness not only of the deficiencies but also of the significant accomplishments of state and local government.

Political parties have much to gain by demonstrating genuine concern for providing government that is not only honest but efficient and capable of delivering on promises.

Universities and research centers can contribute much to public policy and productivity analysis. University departments of economics, business and public administration, industrial engineering, and psychology can provide training and research in planning, finance, and management. In the long run, the universities are the most important source of technical skills and trained professionals for improving the quality of government administration. At the secondary school level, social studies curricula should be redesigned and updated to provide a more realistic understanding of how state and local governments operate and to stress the importance of improving productivity in government.

# 5.

## Responsibilities in the Federal System for Improving State and Local Government Productivity

THE PRINCIPAL RESPONSIBILITY for improving state and local government productivity rests with the states and localities themselves and with the citizens they serve.\* No standardized prescriptions could cover the varied economies, populations, and forms of government of America's 50 states and 39,000 municipalities, counties, and townships. Nor will any approaches prove successful without the enthusiastic and sustained backing of top state and local government officials and the cooperative support of public employees and citizens. State and local governments should act to improve their productivity through opportunities suggested in this policy statement for more effective identification of goals and objectives, choice of most cost-effective policies for achieving goals, and utilization of a range of techniques and practices to improve operations.

However, no state or local government functions independently; each interacts with other governments in the federal system in ways that impede or enhance productivity.\*

\*See memoranda by OSCAR A. LUNDIN, page 80.

## STATE ROLE IN ENCOURAGING LOCAL GOVERNMENT PRODUCTIVITY

The Constitution recognizes states as sovereign powers within the federal system and establishes, through a series of judicial rulings, their authority to create, abolish, and regulate local governments. The structural, financial, and administrative foundations established by state law directly affect the productivity of local governments, for better or worse. Thus, the issue is not whether states have a responsibility but rather how they should exercise their responsibility in order to enhance local government productivity.

We believe the state governments should play a central role in providing leadership, incentives, and technical assistance for improving the productivity of their local governments and, further, should work toward removing state-imposed impediments to productivity, which in many states are numerous. This does not imply a diminution of local prerogatives; on the contrary, it suggests a need for states to update their traditional responsibility for providing foundations of local government that will permit cities and counties to manage their own affairs more effectively.

To date, the states have had a mixed record of achievement. Outstanding examples of progress include Minnesota's creation of the Metropolitan Council of the Twin Cities Area, Indiana's consolidation of Marion County and Indianapolis into "Unigov," and Massachusetts's establishment of numerous regional authorities for its metropolitan areas. Consolidation of school districts has been carried out in nearly all states, partly in response to prodding by the federal government.

Most states, however, have done little to improve local government structure and even less to encourage more effective management. For example, although most states have accounting standards and uniform budgeting and accounting procedures, these are resisted by local governments and rarely enforced because of a lack of will on the part of state government.

In some instances, states not only fail to encourage productivity but may actually impede it. Legislatures, for example, have been vulnerable to demands of local government employee organizations in mandating staffing patterns, work rules, pension systems, and pay scales that obstruct management and increase costs. Thus, state legislation, until modified, prevented New York City from assigning more police to duty in high-crime periods. Failure to modernize state constitutions and statutes (in some

instances the fault of citizens and local officials rather than of state leaders) results in local governments operating with structures and processes created for conditions prevailing in the nineteenth century.

Some state governments lag behind the more progressive local governments within their jurisdiction in matters of internal management. These localities will naturally resist impositions from a state that is considered inferior in management capability.

A long-overdue first step is for state government to provide the basic structural foundations for effective local government. Local government in the United States continues to be characterized by unnecessary duplicative and overlapping jurisdictions. There is a need for local jurisdictions of sufficient size and authority to plan, administer, and provide financial support for solutions to areawide problems. Yet, the same system should also provide for smaller units to permit the exercise of local power over matters directly affecting the community. The emphasis should be on the sharing of power between the metropolitan and community levels and not necessarily on the assignment of an entire function to either level.<sup>1</sup> We recommend that state governments move vigorously to improve the structure of local government. Such measures should include the creation of regional, metropolitan, local, and neighborhood institutions; the redefinition or redistribution of government powers and functions; and the authorization to permit local units to utilize intergovernmental contracting and other cooperative service arrangements.\*

Many local governments and operating agencies continue to be administered by persons who lack management training, experience, or capability. Even jurisdictions with city managers lack the management or other personnel required for the systematic improvement of policy making and operations. We recommend that state governments encourage and assist smaller governments in enlisting professional management (such as the circuit city manager or other manpower-pooling arrangements) and larger units in providing management training for top administrators and creating full-time administrative units staffed by personnel professionally trained in management and analysis.

The development and use of skilled professionals is also limited by restrictive personnel systems that discourage employees from moving to

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<sup>1</sup>/See *Modernizing Local Government* (1966), *Modernizing State Government* (1967), and *Reshaping Government in Metropolitan Areas* (1970).

\*See memorandum by FRAZAR B. WILDE, page 81.

new positions that can best use their capabilities as they gain experience and skills. We believe that pension portability should be established nationwide to permit greater mobility of public-sector personnel. Similar actions can also be initiated at the state level; this is especially important because states have legal authority over local government personnel systems. **We recommend that state and local government personnel systems be modified to allow employees to move among local and state agencies without loss of rank, seniority, or pension rights.**\* Implementation of this recommendation will require creation of appropriate state mechanisms to determine the accounting and actuarial principles and other technical arrangements by which pension funds can be transferred from one system to another with appropriate adjustments to account for variations in pension formulas.

Although most states now require some form of fiscal audit of local governments, few have the legal provision or the administrative capacity for evaluating performance or even for the collection of comparative data on program costs and results. We believe that states must take a first step in this direction. **We recommend that state governments establish and enforce minimum standards for local government budgeting, accounting, and performance and reporting systems that would provide data on the level, quality, results, and costs of services.**\* Such data would also provide the means for local governments themselves and for other government agencies, individual citizens, and public-interest groups to evaluate performance. Establishment of minimum (rather than uniform) standards would provide comparable data without impeding those local governments that have more advanced systems. Where enforcement proves difficult, states could require compliance as a condition for receiving state grants.

However, improved performance information will have little consequence without effective mechanisms to evaluate performance and take necessary steps toward improvement (as discussed in Chapter 4). **We recommend that the governor of each state establish a high-level commission with state, local, and nongovernment representation to identify and suggest permanent mechanisms for evaluating and improving state and local government productivity.** Such commissions should consider a range of options, including: expansion of the traditional audit function to include performance reporting and evaluation, assignment of the responsibility for periodically evaluating and assisting local government productivity efforts to a central state agency or a new unit in the office of the governor, establishment of a statewide system of comprehensive measurement of local government performance, and creation of a nongovernment or quasi-public

institution with high visibility and professional staffing for the evaluation of state and local governments.

State governments should also provide financial and technical assistance to local governments for the purposes of developing and implementing performance measures, experimenting with or implementing techniques or programs that have the greatest likelihood of success, and undertaking other programs that would improve productivity. Few local governments have either the manpower or the funds to undertake such efforts; skillful application by states in key localities could effectively exert leverage on other cities and counties in the state.

In turn, certain local and substate regional governments can help improve the productivity of jurisdictions in their areas. Counties encompassing several municipalities or entire metropolitan areas (nearly half the country's metropolitan areas fall within the confines of a single county) might provide or contract services that can be most efficiently produced by a larger government or provided on an areawide basis, such as airport administration, air pollution control, civil defense, transportation, industrial development, sewage disposal, and water supply. Metropolitan authorities, substate regions, or councils of government could similarly promote intergovernmental contracting or other cooperative service arrangements, joint performance measurement systems, or sharing of equipment and expertise.

## **FEDERAL ACTION TO ENCOURAGE STATE AND LOCAL GOVERNMENT PRODUCTIVITY**

In the United States, 80 percent of the purchases of nondefense goods and services by government, including those heavily financed by the federal government, are administered by states and localities. State and local governments are instruments for carrying out federal policy, spending federal funds, and meeting what are clearly national needs manifested at the local level. These roles are sufficiently important to command federal attention to state and local government productivity.

The federal government has a history of action to improve the performance standards of state and local governments. For example:

Financing for state employment services in the 1930s was accompanied by a requirement that state administrations install civil service systems, an action hotly opposed at the time by many state officials and politicians.

\*See memoranda by FRAZAR B. WILDE, page 81.



Planning requirements under the Hospital Survey and Construction Act of 1946 (also known as the Hill-Burton Act) required states to establish statewide plans for hospital construction based on surveys of needs.

The Housing Act of 1954 required submission of comprehensive "workable programs" as a condition for urban renewal and redevelopment grants. To help states and localities meet these and other planning requirements, the federal government also supplied financial assistance for planning, thereby making possible the great expansion of state and local planning during the 1950s and 1960s.

Although these and related federal actions may have represented institutional improvements at the time, each developed the characteristic difficulties of inflexibility, excessive red tape, and failure to keep up with changing conditions. With the great proliferation of federal grant programs in the 1950s and 1960s, each with its own set of requirements and regulations, federal oversight was increasingly regarded as gratuitous interference in local affairs rather than as a means of ensuring efficient use of federal funds. The most vociferous objections did not concern the establishment of administrative standards so much as the requirements for participation by the poor through community action agencies.

In reaction to the complexity and controversy of the grant programs, the federal government in the 1970s turned to revenue sharing on the assumption that the states and localities were better equipped to ascertain and meet domestic needs for public services.

The resulting spectrum of assistance programs not only fails to use federal influence to raise state and local government productivity but in some ways also impedes improvement. At one end of the spectrum are many categorical grant programs with overly detailed requirements. At the other end is general revenue sharing with few real standards of any kind. In between are the functionally oriented consolidated or block grant programs, covering law enforcement, manpower development, community development, and urban transportation, which are little concerned with overall management improvement. The objective, which is still far from being realized, is a balanced federalism with more flexible federal controls and greater latitude for state and local discretion and innovation. In shifting from one extreme of detailed categorical grants to the other extreme of general revenue sharing with few or no standards, the federal government has skipped over the middle ground of establishing general and flexible standards that encourage productivity.

**Restructuring Federal Assistance.** We recognize that federal assistance to states and localities serves a variety of purposes and cannot be directed solely to the interest of productivity improvement. However, the power to grant or withhold funds is the most potent source of pressure that can be brought to bear on state and local officials to improve productivity. We recommend that federal grants, including revenue sharing, block grants, and categorical programs, be redesigned to encourage improvements in the structure and internal management of state and local governments that will enhance productivity.\* Standards for improvement should aim to increase the capacity of states and localities to determine needs and choose courses of action effectively and efficiently; they should not impose the federal will on the states and localities in these matters. There are several options for implementing this recommendation, each of which should be tested and considered in relation to other purposes of federal assistance programs. These options are not necessarily mutually exclusive.

One option is to require that recipients of revenue sharing and block grants meet specified administrative criteria such as comprehensiveness of geographic coverage and powers in given functional areas, effectiveness of general organization, formal representation or access by parties with legitimate interests, adequacy of administrative systems, and the regular compilation of performance data.\*\* Urban transportation grants, for example, might go only to agencies that have metropolitan-wide operations, responsibility for all modes of transportation, formal relationships with general land-use planning bodies in the area, representation of local governments and of state and federal transportation interests, acceptable budgeting and accounting procedures, and regular compilation of data on user need and satisfaction with transportation services. A similar approach was incorporated in a bill sponsored by Congressman Henry S. Reuss and Senator Hubert H. Humphrey in the late 1960s. Aimed at improving the organization and financial operations of state and local government, it would have provided block grants to states having an approved "modern governments program" specifying the state's plan to invigorate and modernize its own government as well as the local governments within the state. In part, it called for reducing the number of overlapping districts, correcting economic disparities among local jurisdictions, and establishing standard machinery of modern organization.

A second option is to require that a specific percentage of federal grants be expended for the development and implementation of techniques to measure, analyze, and improve operations.

\*See memorandum by OSCAR A. LUNDIN, page 81.

\*\*See memorandum by CHARLES P. BOWEN, JR., page 82.



A third option is to establish bonus payments for those states and localities that meet specified administrative requirements or develop and implement their own programs for measuring, analyzing, and improving operations.

Finally, for categorical programs in particular, the federal government could place greater emphasis on achieving program objectives and less stress on guidelines and requirements for implementing programs. This would permit flexibility for innovation and adaptation to local conditions while assuring the pursuit of specific federal objectives, which is the purpose of categorical grants.

Administrative standards can encourage better management, but they are of limited efficacy in correcting the deeper problems of administrative arteriosclerosis, indifference, inertia, and lack of incentive for efficient performance. To address these problems, federal assistance programs directed specifically at internal management and productivity improvement are required.

Technical assistance to state and local governments has focused largely on specific functional programs; little or no aid has been provided for general management improvement. A federal interagency committee recently identified eighty major technical assistance programs that in 1974 cost \$512 million.<sup>2</sup> Of the total \$512 million (1.1 percent of federal grants to states and localities in 1974), about \$79 million (only 15 percent of the technical assistance and 0.2 percent of all federal grants) went for general management purposes; most of this was for physical planning and development through the planning grants of the Department of Housing and Urban Development. HUD planning grants and activities under the Intergovernmental Personnel Act have been virtually the only federal programs to address the general management needs of state and local governments, although some agencies recently have initiated so-called capacity-building programs to improve state and local management capability.

One result of the functional orientation of federal technical assistance has been to concentrate the process of designing, managing, and evaluating programs in the functional bureaucracies (health, education, housing, law enforcement, and so forth), each of which forms a loosely integrated verti-

cal structure extending from federal to state to local levels. Over the years, this form of functional federalism has had the dual effect of superseding the responsibility of local policy makers in formulating programs to meet community needs and fragmenting local administration along functional lines to the detriment of coordinated service delivery.

**We recommend that federal financial and technical assistance to state and local governments for improving internal management be expanded.** An important source of expertise in this area is the federal government's program to improve its own productivity.

The federal assistance program has suffered from a general lack of leadership, the absence of coordination among agencies providing assistance, and the failure to involve state and local officials themselves in the design of programs. The Advisory Commission on Intergovernmental Relations has made numerous recommendations for strengthening the federal system in general and the grant program in particular, but ACIR lacks the authority for establishing or implementing policy. **We recommend that the President designate a federal agency to develop policy and coordinate implementation of federal assistance to states and localities with the participation of state and local officials. This agency should have direct access to the chief executive.\*** The agency should both address the productivity implications of federal assistance and be responsible for strengthening management in the intergovernmental system.\*\*

For example, a series of steps could be taken to improve the administration of general grant programs, including reducing the complexity of applications, cutting the time that elapses between filing of applications and awarding of grants, permitting consolidated application for several grants in related areas, and improving the effectiveness of the Federal Regional Councils in grant administration. A recent report noted related deficiencies in federal grant procedures.<sup>3</sup> Some progress has been made in correcting them, but additional improvement is still possible.

**Improving Public-Sector Manpower Policy.** There are numerous impediments to the effective use of personnel in state and local government, some of which could be alleviated by federal action. Rigidities in

2/Study Committee on Policy Management Assistance, *Strengthening Public Management in the Intergovernmental System: A Report Prepared for Office of Management and Budget* (Washington, D.C.: U.S. Government Printing Office, 1975).

3/Comptroller General of the United States, *Fundamental Changes Are Needed in Federal Assistance to State and Local Governments: Report to the Congress* (Washington, D.C.: U.S. General Accounting Office, 1975).

\*See memorandum by R. STEWART RAUCH, JR., page 82.

\*\*See memorandum by OSCAR A. LUNDIN, page 82.

civil service systems inhibit the productive use of manpower within governments and, especially as a result of the nonportability of pensions, impede the distribution of professional skills to assignments and jurisdictions where they are most needed. For example, although federal policy, as reflected in revenue sharing, is attempting to shift financial resources and greater responsibility to the state and local levels, there is no commensurate effort to redistribute the substantial talent in the federal government to state and local governments where it is most needed. Recruitment and training are undertaken on a jurisdiction-by-jurisdiction basis without the benefit of national mechanisms to facilitate the identification and development of management talent. Relatively little has been done to encourage personnel interchanges between the public and private sectors that could bring business experience to government, and vice versa (as, for example, in the Executive Interchange Program for the federal government).

We recommend that the Intergovernmental Personnel Act (IPA) programs of interchange among federal, state, and local governments be expanded and, in addition, that interchanges between the private and public sectors be promoted. We further recommend that the U.S. Civil Service Commission's Bureau of Intergovernmental Personnel Programs or the National Commission for Manpower Policy undertake a major review of public-sector manpower policy in order to determine ways to make state and local civil service and personnel systems more conducive to productivity improvement and to examine possibilities for nationwide mechanisms of recruitment, interchange, and pension portability for state and local personnel.

We also urge that federal agencies make a practice of assigning officials who are responsible for grant programs to work in states and localities for limited periods as a means of both providing technical assistance and expanding their understanding of state and local conditions and operating problems. In such assignments and in IPA interchange programs, measures should be taken to discourage the practice of assigning less effective personnel to state and local positions.

### **More Effective Innovation, Research, and Development.**

Many state and local governments are disinclined to experiment with new techniques and develop new technologies. The Federal Council for Science and Technology noted in 1972 that use of science and technology by state and local governments was roughly equivalent to that of the federal government in 1940, that is, largely dependent on external resources for research and development.

The federal government can play an important role in providing both funds and stimulus for research and innovation. However, federal efforts to date have suffered from poor design, methods, and evaluation because of a lack of planning and overdependence on random innovation. Such federal programs as Community Action, Model Cities, and Title III of the Elementary and Secondary Education Act of 1965 relied heavily on local experimentation without systematic approaches or evaluation that would have increased their usefulness. From their point of view, state and local officials complain that some federal research affecting their interests does not involve them in either design or implementation.

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## **SYSTEMATIC EXPERIMENTATION**

In Kansas City, an experiment initiated by local police personnel and sponsored by the Police Foundation investigated the effectiveness of conventional random police patrol on the crime rate and citizens' sense of security in three districts of the city. In one district, police patrols were quadrupled; in a second, patrols were held at customary levels; in a third, patrols were eliminated, and police responded only to specific calls for service. One year's experience indicated no difference in either the crime rate or the citizens' perceptions of their own safety, suggesting that there may be more effective ways to use police officers in large cities than random patrol.

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Some attempts have been made to draw upon federal research and development in space and defense for application to the cities, but in general, such efforts have been piecemeal and have overemphasized the adaptation of hardware. A more far-reaching approach is required to reorient the massive federal investment in research and development to serve the needs of state and local governments more effectively.

Federal research has also been deficient in the dissemination of results. This stems partly from failure to involve potential users (state and local officials) in important research efforts, but it also reflects distorted budget

priorities. This suggests not simply publishing more reports but also determining more imaginative ways both to reach potential users and to increase their desire for new techniques and knowledge.

One example of lost opportunity has been research and demonstration in mass transportation. The congressional Office of Technology Assessment, noting that transit technology has made little advance in the last fifty years, has criticized the federal program for failure to identify transit needs precisely and to evolve systems for meeting needs; for overemphasis on esoteric new systems that do not address themselves to existing transit problems; and for overemphasis on transit hardware generally, as opposed to experimentation with service levels, fare structures, and other matters concerning the convenience and availability of mass transit. The emphasis on transit hardware has been criticized as being solutions in search of problems.

We recommend that federally sponsored research and development be restructured to devote a larger share of resources to problems facing state and local governments in a way that would involve state and local officials in identifying priorities and approaches, emphasizing systematic experimentation, and improving the dissemination of results.

**Leadership for Improvement.** In the end, a more effective federal role in improving government productivity at the state and local levels requires national institutional commitment and leadership. Despite many obstacles, including congressional apathy, the National Commission on Productivity and Work Quality made an effective start by publicizing the importance of improving public-sector productivity and initiating projects to define and stimulate local government productivity. We recommend that the President and Congress demonstrate their concern for improving state and local government productivity through support of an effective federal effort to provide leadership, coordination among federal agencies, and involvement and stimulation of state and local governments. We applaud the conversion of the National Commission on Productivity and Work Quality into the permanent National Center for Productivity and Quality of Working Life. However, to be effective, the new center requires funding substantially beyond its current annual appropriation of \$2 million.\* This center should continue to emphasize the improvement of public-sector productivity. The federal government's experience in improving its own productivity should be adopted by the new center for application to state and local governments.

\*See memorandum by R. HEATH LARRY, page 83.

## Memoranda of Comment, Reservation, or Dissent

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*Page 11, by* FRANKLIN A. LINDSAY

The report gives inadequate weight to the limitations on productivity improvement often imposed by state legislatures. These limitations arise when legislators fail to appreciate the counterproductive effects of overly restrictive legislation and when special interests use the legislative route to frustrate the efforts of public executives to reform or cut back marginal activities or to reduce inefficiencies and duplication.

*Page 14, by* CHARLES P. BOWEN, JR.

Except for bond issues, few citizens have an opportunity to know the relationships or make or express a choice between cost, as represented by taxes, and service. This applies whether the service is for the entire community or for special groups of citizens.

Apparently the overriding objective of many of our political representatives and governmental servants is to keep it this way and to confuse, not clarify, those relationships. Hence, the growing popularity of the so-called transfer payments, an anesthetic form of taxation.

We should advocate much more detailed analysis and publication of programs, unit costs of sources, and recipients of tax revenue and of their comparison with other communities. Citizens so informed might then have some reasonable basis for assessing and expressing how real some of their needs are. They have no such basis now.

Page 16, by MARK SHEPHERD, JR.

This report has correctly identified local goal setting as a vital element in overall productivity improvement. But local goal setting must derive from a community consensus and compromise of many special interests. One important local attempt to develop community goals was the Goals for Dallas program instituted in Dallas, Texas, under Mayor Erik Jonsson in 1965. The supporting organization continues to exist today. The local city manager still finds the path eased for introduction of programs that correspond to Goals for Dallas targets because a local basis of popular support for them has already been developed. Further, this program led to the widespread use of goal-setting techniques in the city government and institutionalized consultation with citizens on city goals.

Page 22 and 67, by OSCAR A. LUNDIN

Implicit in the entire section regarding federal responsibility and actions appears to be the assumption that there is a greater percentage of federal employees with management expertise than there is at the state and local level. This assumption results in the recommendation that the federal government provide expert technical assistance to improve internal management in state and local government.

To me, that assumption is not valid. I am not aware any data exist to show that the federal government has a greater percentage of employees competent in the field of management. Because of the greater number of employees at the state and local level, it is very likely there is a greater number of such employees having competency in management than at the federal level.

To the extent that existing federal expertise in improving productivity can be passed along to state and local governments, it should be done, provided it is done in a manner that avoids the federal government dictating to the others. Moreover, it should be emphasized the federal government probably would be able to learn from the expertise available in the states.

Pages 22 and 67, by OSCAR A. LUNDIN

I strongly support the concept of improving productivity at the state and local government levels and commend the growing number of political entities that have already taken steps in this direction. This is an important area in which I believe too little attention has been focused. Therefore, I am in agreement

with the recommendations which encourage those governments to take the initiative in improving their productivity.

However, I am concerned with those recommendations and statements regarding federal responsibility and actions to improve state and local government productivity. In my view, there already has been too much federal intrusion into lower levels of government. Some of the recommendations contained in the report would, I believe, cause further intrusion.

Pages 23 and 69, by FRAZAR B. WILDE

The implications of this recommendation extend far beyond productivity into basic social change. While much of this change is necessary and desirable, the open-endedness of this recommendation troubles me.

Pages 23 and 70, by FRAZAR B. WILDE

I concur with this recommendation as it relates to preserving employee benefits. Beyond this, however, mobility of employment without loss of rank or seniority is, in my judgment, counterproductive.

Pages 23 and 70, by FRAZAR B. WILDE

I think this recommendation should be modified to provide that any such set of minimum standards be designed in a manner to differentiate appropriately among the various sizes of local governments. In small communities, I think that government is still close to the citizenry and that productivity is good. To impose a heavy set of bureaucratic standards on small communities, as states have a tendency to do, is counterproductive.

Pages 24 and 73, by OSCAR A. LUNDIN

This paragraph of the report indicates that the federal government should "encourage" the state and local governments to improve productivity. This can be done because "the power to grant or withhold funds is the most potent source of pressure that can be brought to bear on state and local officials to improve productivity." This is contradicted by the sentence which states that standards for improving productivity "should not impose the federal will on the states and localities in these matters." Despite this contradiction, the thrust appears to be forcing state and local governments to do what is dictated by the federal government. I find this unacceptable.

Pages 24 and 73, by CHARLES P. BOWEN, JR., with which CHARLES C. TILLINGHAST, JR., has asked to be associated

I strongly disagree with using federal revenue sharing as a weapon to force local adoption of federal concepts of good management practices. The entire revenue sharing program is a totally inadequate patchwork substitute for correction of a basic tax policy error. That error has led to too much federal, as opposed to local, taxation. Substantial abdication of local control over levels and methods of taxation and over effective expenditure of tax funds is the natural result.

Revenue sharing is a prime example of the negative impact upon good management practices of transfer payment programs which obscure the relationship between revenue sources and revenue expenditure beneficiaries. It encourages communities to make commitments for more than they have the resources to support.

Rather than seeking to increase federal impact for what are admittedly good ends, we should consider the inherent inefficiencies of this increased centralization of power and the resulting duplication of expensive organization structures. There is nothing in recent history to demonstrate that the federal government is the source of all, or even most, of the good management answers. The closer we can place control of expenditures to the people who pay for them, the more likely we are to reduce them and to get more value for what is spent.

Pages 25 and 75, by OSCAR A. LUNDIN

The report recommends that the President designate a single federal agency with direct access to him to develop policy and coordinate implementation of federal assistance to states with participation of state and local officials. This recommendation in my view would likely create another layer of bureaucracy at the federal level and inhibit rather than promote the federal assistance desired. I suggest some independent group (such as the Advisory Commission on Intergovernmental Relations) should be charged with the responsibility of trying to improve productivity at all levels of government, federal as well as state and local. Funding for such a group might be provided by foundations.

Pages 25 and 75, by R. STEWART RAUCH, JR.

This recommendation or designation of a particular federal agency to develop management policies and administrative standards is a narrow solution for a pervasive problem and is likely to be counterproductive. Every agency of

the federal government, including Congress, should understand and respond to the need for program efficiency. "Designation" of one federal agency makes it convenient for others to ignore the issues. Moreover, the major flow of policy initiatives should be from state and local governments to federal agencies, not, as this recommendation too strongly implies, the other way around. Creation of a bureaucratic vested interest in this matter within the federal government may well become obstructive of local experimentation.

Pages 26 and 78, by R. HEATH LARRY

Although the current fiscal year 1976 appropriation for the center remains at the \$2 million level ascribed to the former National Commission on Productivity and Work Quality, the legislation creating the National Center for Productivity and Quality of Working Life, P.L. 94-136, authorizes an annual spending ceiling of \$5 million for three years. As a member of the former productivity commission and a counselor to the vice-president in his capacity as chairman of the center, I want to note that additional financial resources would permit the center to address more specific sectors of the economy. It intends to work in close cooperation with other agencies to increase the total amount of federal resources available for productivity improvement. The role of the center is, and ought to be, primarily catalytic.

The importance of external pressures to achieve greater performance accountability by public officials cannot be underscored sufficiently. In the exercise of this pressure, private organizations and individuals must keep in mind that the most significant productivity gains for the nation as a whole may require redistribution of traditionally public functions to other sectors of the economy, and in some cases, it may even require the elimination of certain governmental activities, for example, those regulations that protect a few at great economic cost. The process of achieving *efficiency* in the conduct of *appropriate* governmental functions will require change that may impact all of us. Those of us external to government must realize that public-sector productivity improvement is our responsibility as well.

Page 31, by MARK SHEPHERD, JR.

Education represents one-third of state and local government expenditures. This is obviously one area where productivity improvements could have a major impact on state and local budgets but where very little progress has been made; indeed, few educators in the profession appear to be thinking of productivity improvement as a critical goal. In the 1973 Carnegie-Mellon University Benjamin

F. Fairless Lectures, Patrick E. Haggerty has discussed this issue of educational productivity in greater detail. See *The Productive Society* (New York: Columbia University Press, 1974).

Page 39, by CHARLES P. BOWEN, JR., with which CHARLES C. TILLINGHAST, JR., has asked to be associated

I don't believe we should accept at face value this glib explanation of the sources of crime. Countries with unemployment and poverty levels far worse than ours neither experience nor tolerate violent criminal practices we are urged to accept as inevitable because of economic inequities.

The real issue is that our culture has long been implicitly encouraged by too many irresponsible sociologists, educators, and politicians to accept permissive and irresponsible personal behavior as normal. These same sources champion the civil rights of criminals without much consideration of the civil rights of their victims. The resulting ineffective police, judicial, and correctional practices make violent crime appear to be attractively risk-free.

Until we get at that root of the problem, improvements in police efficiency are of doubtful significance.

Page 39, by JAMES Q. RIORDAN, with which C. WREDE PETERSMEYER and CHARLES C. TILLINGHAST, JR., have asked to be associated

I do not approve the statement *Improving Productivity in State and Local Government*.

History and logic strongly suggest that productivity of government varies in inverse ratio with its scope and size. The possibility that the government's size and scope should be reduced is virtually ignored in the report. The fact is that government efficiency and effectiveness will never reach their highest possible levels. This is true for all systems and institutions. If private philanthropy reached its highest possible levels, there would be less need for government welfare; if private morality and self-discipline reached their highest levels, there would be less need for police. Nevertheless, all would agree that government should supply welfare and police service based on our experience to date with private philanthropy and morality. The problem is: How big should today's imperfect government be in today's imperfect world? One possible answer may be: *smaller*.

## Appendix A

### PENNSYLVANIA PROGRAM BUDGETING SYSTEM

THE FOLLOWING EXAMPLE illustrates how one state's program budgeting system focuses decision making on the impacts and outputs of programs and how it requires analysis to support budget requests.

#### BUDGET FORMAT

Pennsylvania's program budget classifies all state activities within a four-level program structure: state programs, program categories, program subcategories, and elements. The state police function falls within the state program "Protection of Persons and Property," and the agency activities are classified into five program categories, one of which is "Traffic Safety and Supervision." This category is, in turn, broken down into three subcategories, one of which is "Traffic Supervision." The program measures include both impact data (effect of the activities upon fatalities and injuries), which provide a basis for effectiveness analysis, and output data (such as number of arrests).

#### APPROPRIATIONS HEARING

The following excerpt from one of the Pennsylvania House Appropriations Committee hearings with the state police dealing with the "Traffic Supervision" subcategory illustrates the growing interest of state legislators in more systematically assessing program effectiveness.

#### Excerpt from The Pennsylvania House Appropriations Committee Hearings, April 2, 1975

*Chairman Wojdak:* I had asked several questions about the means of collecting data, hard data, to establish and determine the effectiveness of certain programs. One was . . . traffic supervision. . . . I would like you to furnish me as soon as possible with how you are determining the effectiveness of these programs and if you have no means at present of determining the effectiveness, how you plan to determine the effectiveness of it. . . .

*Major Buchinsky:* Yes. I did want to offer something, Mr. Chairman, if I may. I don't know who put some of these statements in and that is concerning the low number of accidents and the fact that patrols do not have a major impact on accident rate. I would like to find where the reference is. In other words, what documentation there is to support that general statement for this particular reason. . . .

*Chairman Wojdak:* Major, everything you say may very well be true. My question was to determine on the basis of what some recent studies have shown and we will furnish those to you if you want them.

*Major Buchinsky:* I would appreciate that.

*Chairman Wojdak:* Okay. That patrolling really was not a significant factor in reducing the occurrence of accidents. Now, you may disagree with that. We will furnish you with those studies.

My questions to you before were what considerations you were using in determining how many numbers of officers you would use in traffic control . . . in light of these studies.

*Major Buchinsky:* May I cite one particular instance where the presence of other patrols would have gone ahead and prevented a fatality?

*Chairman Wojdak:* There is no doubt in my mind that in individual cases, and I am not certain how many cases that would be or what percentage it would be, I am certain there are instances where patrol does prevent accidents.

*Major Buchinsky:* And this is one that we could document very definitely, sir. . . .

*Chairman Wojdak:* I think everyone's ultimate goal is running things most efficiently and if, in fact, studies show that . . . traffic patrols don't have a major impact on accidents, all I am really trying to determine is what alternative plans, or how that affects your thinking in allocating officers because ultimately, if you disagree with the plan, your requests will be for additional officers.

All I am trying to determine is what your thinking is and it is the same thing with the determination of the effectiveness of the municipal police training program and with the crime prevention program.

## PROGRAM ANALYSIS ABSTRACT

Results of an analysis conducted by the Program Planning and Evaluation unit in the Governor's Budget Office are being used to revise their 1976-1977 budget request. The study examined the relation between traffic accidents and enforcement by state police. This state activity spends approximately \$67 million per year attempting to minimize accidents.

The data were collected at eighteen locations across the state. The researchers employed a random sampling technique in gathering the data. The major analytic techniques were correlation analysis and stepwise multiple regression analysis.

Based on the results of the correlation analysis and the experience of other studies in the field, the following were chosen as the independent variables: traffic volume, total arrests, patrol hours, radar hours, season, highway type, and zone number. The major dependent variable was total traffic accidents. Other dependent variables investigated were accidents specific with respect to severity and highway type. The results are summarized below:

1. The analysis definitely indicates a relation between the level of enforcement and total traffic accidents. It can be stated that if the state police increase in-view patrol hours, the effect will be a depressing effect on total accidents.  
This statement does not imply that an increase in patrol hours will result in an absolute decline in traffic accidents. It does state that an increase in patrol hours will result in fewer accidents than would have occurred otherwise. This qualification is made necessary by the powerful impact of traffic volume on the accident rate.
2. Total arrests are also a significant depressant of total accidents. However, as the analysis becomes specific to type of accident and highway type, the significance dissolves. The signs, though, are consistent, indicating that the state police are having the desired effect.
3. Radar hours are generally an insignificant explainer of total accidents and accidents specific to severity and highway type. However, the signs of the coefficients do indicate that the very weak relationship is in the desired direction; that is, radar hours suppress accidents. As is pointed out above, the weakness of the radar hours relationship is partially accounted for by the limits of the data set.

## Appendix B

### EXAMPLES OF IMPROVEMENTS IN LINE-AGENCY OPERATIONS<sup>1</sup>

<i>Problem</i>	<i>Measure</i>	<i>Type of Change</i>	<i>Description of Change</i>	<i>Result</i>
Backlog of reports and documents to be typed	Lines typed per week, cost savings	Technological improvement	Word-processing center to allow for machine dictation and faster typing	Reorganization of typing pool from forty-one to seventeen typists
Excessive time spent investigating building department complaints not in violation of law	Percentage of valid violation cases inspected, number of inspections per case	Rescheduling of activities	Assignment of inspectors to the office one day per week to screen building department cases	Reduction in the number of no-violation cases inspected and increases in the number of cases closed
Delay in patient care at a county medical center emergency room	Time required for processing patients	Redeployment of staff	Triage nurse to screen cases, development of walk-in clinic during peak hours to handle nonemergency cases, establishment of new shifts for nurses to match staffing with patient demand	Decrease in the average waiting and treatment time for patients
Inability to investigate and recertify monthly social services case load	Number of cases completed, number of cases completed per examiner per month	Reassignment of tasks	Consolidation of units, specialization of duties to free examiner's time for fieldwork, equalization of workload, standardization of tasks, increased supervisory support	21.3 percent increase in the number of cases completed per examiner per month
High percentage of trucks to be repaired	Number of vehicles repaired, time vehicles are out of operation	Rescheduling of activities and inventory control	Preventive-maintenance program that includes: inventory control, scheduling of vehicles for repair and inspection, education program for personnel on proper use of trucks, night shift created (responsible for preventive maintenance of trucks)	13 percent decrease in time vehicles are out of service
<sup>1</sup> Method of evaluation developed and used in Nassau and Westchester Counties, New York.				



### MANAGEMENT INFORMATION SYSTEM DEVELOPMENT AND APPLICATION

THE DEVELOPMENT of a management information system (MIS) in Sunnyvale, California, can be traced through four distinct stages.

**Stage One: Reporting.** During the initial period, Sunnyvale used essentially the same management information and reporting system that the majority of municipalities used up until the late 1960s: a line-item budget, with expenditures being the only quantifiable measure of performance and accounting records the only reporting mechanism. This system was not particularly useful in either planning or controlling municipal operations. It had no capability for performance assessment, and overall management and planning with this type of system was a day-to-day affair.

**Stage Two: Measuring.** In this stage, the information system moved to a line-item budget summarized by programs. Program managers began to define the outputs of the major functions. Control measures were aggregated to unit-cost indicators. The system operated in this manner while the on-line management information modules were being developed by the management staff and the software contractor. Top management could use unit-cost indicators as control mechanisms for programs within each of the functions. The elected officials were now able to review a budget that more accurately reflected the effect of expenditures on municipal

functions. During the latter part of this period, the council decided that the parallel line-item budget was unnecessary and dropped it during the review process.

**Stage Three: Planning.** The third stage initially included bringing on line the real-time management information system of the accounting, personnel, payroll, and utility accounting modules; implementing a long-range capital budgeting system; and beginning PPBS. Later, the six additional modules for purchasing, inventory, equipment control, fixed-asset accounting, public safety, and library were brought on line.

**Stage Four: Predicting and Controlling.** Now in the development process, this stage is an MIS with a metropolitan data base. Information would be used to predict and control the impact of the municipal policy decisions on individual citizens and other government units within the area. To reach this stage, new intergovernmental coalitions must be formed to develop the data base required for such a system. When this system is fully developed, governments will be able to respond to the needs and demands of their citizens with a coordinated approach based on information that is both current and reliable and that adequately represents the impact of an action on the entire metropolitan area.

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*Source: Joint Financial Management Improvement Program, Annual Report to the President and the Congress: Productivity Programs in the Federal Government FY 1974, vol. 2, Case Studies (Washington, D.C., June 1975).*

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Committee for Economic Development of Australia  
128 Exhibition Street, Melbourne, Victoria 3000,  
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### CEPES

Europäische Vereinigung für  
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56 Friedrichstrasse, Dusseldorf, West Germany

### IDEP

Institut de l'Entreprise  
6, rue Clément-Marot, 75008 Paris, France

### 経済同友会

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Japan Industrial Club Bldg.  
1 Marunouchi, Chiyoda-ku, Tokyo, Japan

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### SNS

Studieförbundet Näringsliv och Samhälle  
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Tuesday 7:30 Meeting  
March 22, 1976

THE WHITE HOUSE

WASHINGTON

March 22, 1976

MEMORANDUM FOR : JIM CANNON  
FROM : PAUL LEACH  
SUBJECT: Municipal Bankruptcy Legislation

Two slightly different bills were passed by both the House and the Senate. Conference was held and the report filed for the agreed upon conference legislation for H.R. 10624.

Treasury (Bob Gerard) is going to attempt to move this out of Committee and through the House and Senate quickly, but any other help from other quarters would certainly be useful.

*Leach -  
Conference  
Report  
3/29*



## MUNICIPAL BANKRUPTCY LAW REVISION

MARCH 22, 1976.—Ordered to be printed

Mr. EDWARDS of California, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 10624]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, having met, after full and free conference, have been unable to agree.

DON EDWARDS,  
JOHN SEIBERLING,  
ROBERT F. DRINAN,  
HERMAN BADILLO,  
CHRISTOPHER J. DODD,  
M. CALDWELL BUTLER,  
THOMAS N. KINDNESS,

*Managers on the Part of the House.*

QUENTIN BURDICK,  
PHILLIP A. HART,  
JIM ABOUREZK,  
ROMAN L. HRUSKA,  
HIRAM L. FONG,

*Managers on the Part of the Senate.*





MUNICIPAL BANKRUPTCY LAW REVISION

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Houses on the amendments of the Senate to the bill (H.R. 10624) to  
revise chapter IX of the Bankruptcy Act, having met, after full and  
free conference, have been unable to agree.

Managers on the Part of the House:  
Don Edwards,  
John B. Rostenkowski,  
Robert F. Drinan,  
Herbert H. Goldhamer,  
Christopher J. Dodd,  
M. Caldwell Butler,  
Thomas N. Kinders,  
Managers on the Part of the Senate:  
Quentin Burdick,  
P. William A. Harbo,  
Jim Abzug,  
Roman L. Hruska,  
Herbert J. Brown,  
Managers on the Part of the Senate.



JOINT EXPLANATORY STATEMENT OF THE  
COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, report that the conferees have been unable to agree.

The House bill and the Senate amendments make access to the court of bankruptcy by a municipality that is unable to pay its debts as they mature virtually limitless. The managers have concluded that access to the court of bankruptcy should be limited, by requiring a distressed municipality to meet one of four conditions before it may petition a court of bankruptcy for relief. This requirement is discussed in the analysis of section 84, *infra*. However, addition of this provision is beyond the authority of the managers on the part of the House and the Senate, because it is not within the scope of the matters committed to conference.

On all other matters, the managers on the part of the House and the Senate have agreed. The substance of the agreement is contained in a draft of House amendments to the Senate amendments, set forth in full below. The managers on the part of the House will offer a motion to agree to the amendments of the Senate with these amendments. The motion will be: That the House agrees to the amendments of the Senate to the bill (H.R. 10624) entitled "An Act to revise chapter IX of the Bankruptcy Act," with the following

HOUSE AMENDMENTS TO SENATE AMENDMENTS:

In lieu of the matter proposed to be inserted by the Senate engrossed amendment to the text of the bill insert: That chapter IX of the Bankruptcy Act is amended to read as follows:

"CHAPTER IX

"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES  
AND INSTRUMENTALITIES

"SEC. 81. CHAPTER IX DEFINITIONS.—As used in this chapter the term—

"(1) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated as to amount, fixed or contingent;

"(2) 'court' means court of bankruptcy in which the case is pending, or a judge of such court;

(3)

"(3) 'creditor' means holder (including the United States, a State, or political subdivision or public agency or instrumentality of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 88(a);

"(6) 'lien' means security interest in property, lien obtained on property by levy, sequestration, or other legal or equitable process, statutory or common law lien on property, or any other variety of charge against property to secure the performance of an obligation;

"(7) 'person' includes a corporation or a partnership, the United States, the several States, and political subdivisions and public agencies and instrumentalities of the several States;

"(8) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(9) 'plan' means plan filed under section 90;

"(10) 'special tax payer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of obligations issued by the petitioner to defray the costs of local improvements; and

"(11) 'special tax payer affected by the plan' means special tax payer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (10) of this section assessed against that real estate.

#### "SEC. 82. JURISDICTION AND POWERS OF COURT.—

"(a) JURISDICTION.—The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) POWERS.—After the filing of a petition under this chapter the court may—

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts leases and to such other parties in interest as the court may designate;

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, and over costs and expenses of administration, not including operating expenses of the petitioner, as in the particular case may be equitable; and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) LIMITATION.—Unless the petitioner consents or the plan so provides, the court shall not, by any stay, order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or

"(3) the petitioner's use or enjoyment of any income-producing property.

"(d) DESIGNATION OF JUDGE.—After the filing of a petition, the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

"SEC. 83. RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUBDIVISIONS.—Nothing contained in this chapter shall be construed to limit or impair the power of any State to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

"SEC. 84. ELIGIBILITY FOR RELIEF.—Any State's political subdivision or public agency or instrumentality, which is generally authorized to file a petition under this chapter by the legislature, or by a governmental officer or organization empowered by State law to authorize the filing of a petition, is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts. An entity is not eligible for relief under this chapter unless—

"(1) it has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(2) it has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment of its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

"(3) such negotiation is impracticable; or

"(4) it has a reasonable fear that a creditor may attempt to obtain a preference.

#### "SEC. 85. PETITION AND PROCEEDINGS RELATING TO PETITION.—

"(a) PETITION.—An entity eligible under section 84 may file a petition for relief under this chapter. In the case of an unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file an answer to the petition with the court, not later than 15 days after the publication of notice required by subsection (d) is completed, objecting to the filing of the

petition. Upon the filing of such an answer, the court may dismiss the petition after hearing on notice if the petitioner did not file the petition in good faith, or if the petition does not meet the requirements of this chapter. The court shall not, on account of an appeal from a finding of jurisdiction, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction shall not affect the validity of any certificate of indebtedness authorized by the court and issued in such case.

“(b) LIST.—The petitioner shall file with the court a list of the petitioner’s creditors, insofar as practicable. The list shall include for each known creditor, to the extent practicable, the name of the creditor, the address of the creditor so far as known to the petitioner, and a description of any claim of the creditor, showing the amount and character of the claim, the nature of any security for the claim, and whether the claim is disputed, contingent or unliquidated as to amount. If an identification of any of the petitioner’s creditors is impracticable, the petitioner shall state the reason such identification is impracticable and the character of the claims of the creditors involved. The petitioner shall supplement the list as creditors who were unknown or unidentified at the time the list was filed become known or identified to the petitioner. If the list is not filed with the petition, the petitioner shall file the list at such later time as the court, upon its own motion or upon application of the petitioner, sets.

“(c) VENUE AND FEES.—The petition and any accompanying papers, together with a filing fee of \$100, shall be filed with a court in a district in which the petitioner is located.

“(d) NOTICE.—The petitioner or such other person as the court designates shall give notice of the filing or dismissal of the petition to the State in which the petitioner is located, to the Securities and Exchange Commission, and to creditors included in the list of creditors required by subsection (b) or in any supplement to that list. The notice shall also state that a creditor who files with the court a request, setting forth that creditor’s name and address and the nature and amount of that creditor’s claim, shall be given notice of any other matter in which that creditor has a direct and substantial interest. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court deems proper. The court shall require that a copy of the notice required by the first sentence of this subsection be mailed, postage prepaid, to each creditor named in the list required by subsection (b) at the address of such creditor given in the list, or, if no address is given in the list for a creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice may, if the court so determines, be mailed, postage prepaid, to such creditor addressed as the court may prescribe. All expense of giving notice required by this subsection shall be paid by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party. The notice shall be first

published as soon as practicable after the filing of the petition, and the mailing of copies of the notice shall be completed as soon as practicable after the filing of the list required by subsection (b).

“(e) STAY OF ENFORCEMENT OF CLAIMS AGAINST PETITIONER.—

“(1) EFFECT OF FILING A PETITION.—A petition filed under this chapter shall operate as a stay of the commencement or the continuation of any judicial or other proceeding against the petitioner its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of an act or the commencement or continuation of a judicial or other proceeding which seeks to enforce a lien upon the property of the petitioner or a lien on or arising out of taxes or assessments due the petitioner, and shall operate as a stay of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

“(2) DURATION OF AUTOMATIC STAY.—Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this subsection, the stay provided for in this subsection shall continue until the case is closed or dismissed, or the property subject to the lien is, with the approval of the court, abandoned or transferred.

“(3) RELIEF FROM AUTOMATIC STAY.—Upon the filing of a complaint seeking relief from a stay provided for by this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

“(4) OTHER STAYS.—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined by the court, upon notice to each person against whom such order would apply, and for cause shown. The court may issue an order under this paragraph without requiring the petitioner to give security as a condition to that order.

“(f) UNENFORCEABILITY OF CERTAIN CONTRACTUAL PROVISIONS.—A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify, the contract or lease because of the insolvency of the petitioner or the commencement of a case under this chapter is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

“(g) RECOVERY OF SET-OFF.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the filing of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person against whom or which recovery is sought of the claim which arises by reason of the recovery.

“(h) AVOIDING POWERS.—Sections 60a, 60c, 67a, 67d, 70c, 70e(1), and 70e(2), and the first three sentences of section 60b shall apply in cases under this chapter as though the petitioner were the bankrupt, debtor, or trustee. If the petitioner refuses to pursue a cause of action under a section or sentence made applicable to this chapter by this subsection



tion, the court may, upon the application of any creditor, appoint a trustee to pursue such cause of action.

**"SEC. 86. REPRESENTATION OF CREDITORS.—**

**"(a) REPRESENTATION AND DISCLOSURE.**—Any creditor may act in that creditor's own behalf or by an attorney or a duly authorized agent or committee. Every person, not including governmental entities, representing more than one creditor shall file with the court a list of the creditors represented by such person, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the claim held by that creditor, and shall attach to the list a copy of the instrument signed by the holder of such claim showing such person's authority, and shall file with the list a copy of the contract or agreement entered into between such person and the creditors represented by that person. Such person shall disclose all compensation incident to the case, received or to be received, directly or indirectly, by that person. That compensation shall be subject to modification and approval by the court.

**"(b) MULTIPLE COMPENSATION.**—The court shall examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if any person, not including governmental entities, promoting the plan, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any of its creditors, and shall take evidence under oath to determine whether any such compensation has occurred or is to occur. After such examination the court shall make an adjudication of this issue, and if it be found that any such compensation has occurred or is to occur, the court shall dismiss the petition and tax all of the costs against the person promoting the plan or doing anything of such a nature and receiving such multiple compensation, or against the petitioner, unless such plan is modified, within the time to be allowed by the court, so as to eliminate the possibility of such compensation, in which event the court may proceed to further consideration of the confirmation of the plan.

**"SEC. 87. REFERENCE, EXPENSES, AND JOINT ADMINISTRATION.—**

**"(a) REFERENCE.**—The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report upon such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

**"(b) EXPENSES.**—The court may allow reasonable compensation for the actual and necessary expenses incurred in connection with the case, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work has been done by the petitioner or by a representative of creditors, and may allow reasonable compensation for an attorney or agent of any of them. No fee, compensation, reimbursement, or other allowances for an attorney, agent, or representative of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such

sums, if any, as may be provided for in the plan. An appeal may be taken from any order allowing compensation to the United States court of appeals for the circuit in which the case under this chapter is pending, independently of any other appeal which may be taken in the case. The court of appeals shall hear and determine such appeal summarily.

**"(c) JOINT ADMINISTRATION.**—If two or more petitions by related entities are pending in the same court, the court may order joint administration of the cases.

**"SEC. 88. CLAIMS.—**

**"(a) ALLOWANCE OF CLAIMS.**—In the absence of an objection by a party in interest, or of a filing of a proof of claim, the claim of a creditor that is not disputed, contingent, or unliquidated as to amount, and that appears in the list or in a supplement to the list filed by the petitioner under section 85(b) shall be deemed allowed. The court may set a date by which proofs of other claims shall be filed. If the court does not set a date, such proofs of other claims shall be filed before the entry of an order confirming the plan. Within thirty days after the filing by the petitioner of the list or any supplement to the list under section 85(b), the court shall give written notice to each person whose claim is listed as disputed, contingent, or unliquidated as to amount, informing each such person that a proof of claim must be filed with the court within the time fixed under this subsection. If there is no objection to such claim, the claim shall be deemed allowed. If there is an objection, the court shall hear and determine the objection.

**"(b) CLASSIFICATION OF CREDITORS.**—The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights, consistent with the provisions of section 89, except that the court may create a separate class of creditors having unsecured claims of less than \$250 for reasons of administrative convenience. If there is a controversy over the classification of a creditor, the court shall, after hearing on notice, summarily determine such controversy.

**"(c) DAMAGES UPON REJECTION OF EXECUTORY CONTRACTS.**—If an executory contract or an unexpired lease is rejected under the plan or under section 82(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the year next succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

"SEC. 89. PRIORITIES.—The following shall be paid in full in advance of any distribution to creditors under the plan, in the following order:

"(1) The costs and expenses of administration which are incurred subsequent to the filing of a petition under this chapter.

"(2) Debts owed for services or materials actually provided within three months before the date of the filing of the petition under this chapter.

"(3) Debts owing to any person, which by the laws of the United States (other than this Act) are entitled to priority.

"SEC. 90. FILING AND TRANSMISSION OF PLAN AND MODIFICATIONS.—

"(a) FILING.—The petitioner shall file a plan for the adjustment of the petitioner's debts. If such plan is not filed with the petition, the petitioner shall file the plan at such later time as the court, upon its own motion or upon application of the petitioner, sets. At any time prior to the confirmation of a plan, the petitioner, or any creditor, if the petitioner has consented in writing to the modification to be filed by the creditor, may file a modification of the plan; but the modification shall comply with the provisions of this chapter.

"(b) TRANSMISSION OF PLAN AND MODIFICATIONS.—As soon as practicable after the plan or any modification of the plan has been filed, the court shall set a time, which shall be ninety days from the filing of the plan or any modification of the plan, unless the court, for good cause, sets some other time, within which creditors may accept or reject the plan and any modification of the plan. The petitioner or such other person as the court designates shall transmit by mail a copy of such plan or modification, or a summary and any analysis of such plan or modification, a notice of the time within which the plan or modification may be accepted or rejected, and a notice of the right to receive a copy, if it has not been sent, of such plan or modification, to each creditor whose claim is affected by the plan, to each special tax payer affected by the plan, and to any party in interest that the court designates. Upon request by a recipient of such summary and notice, the petitioner or such other person as the court designates shall transmit by mail a copy of the plan or modification to that recipient. The court shall, after hearing on notice, determine any controversy as to whether a claim of a creditor or class of creditors is a claim affected by the plan and as to whether a special tax payer is a special tax payer affected by the plan.

"SEC. 91. PROVISIONS OF PLAN.—A petitioner's plan may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of any executory contract or unexpired lease.

"SEC. 92. ACCEPTANCE.—

"(a) WHO MAY ACCEPT OR REJECT.—Unless a claim of a creditor who is included in the list or in a supplement to the list filed under section 85(b) or who files a proof of claim and whose claim is not then disputed, contingent, or unliquidated as to amount, or of a security holder of record as of the date of the transmittal of information under section 90(b), has been disallowed or is not a claim affected by the plan, that creditor or security holder may accept or reject the plan

and any modification of the plan within the time set by the court. Notwithstanding an objection to a claim, the court may temporarily allow such claim in such amount as the court deems proper for the purpose of acceptance or rejection under this section.

"(b) GENERAL RULE.—Except as provided in subsection (d), the plan may be confirmed only if it has been accepted in writing by or on behalf of creditors holding at least two-thirds in amount of the claims of each class allowed under section 88 and more than 50 percent in number of the claims of each class allowed under section 88.

"(c) COMPUTING ACCEPTANCE.—The two-thirds majority required by subsection (b) is two-thirds in amount of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d). The more than 50 percent required by subsection (b) is more than 50 percent in number of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d).

"(d) EXCEPTION.—It is not requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors—

"(1) whose claims are not affected by the plan;

"(2) if the plan makes provision for the payment of their claims in cash in full; or

"(3) if provision is made in the plan for the protection of the interests, claims, or lien of such creditor or class of creditors.

"(e) ACCEPTANCE OF MODIFICATION.—If the court finds that a proposed modification does not materially and adversely affect the interest of a creditor, the modification shall be deemed accepted by that creditor if that creditor has previously accepted the plan. If the court determines that a modification does materially and adversely affect the interest of a creditor, that creditor shall be given notice of the proposed modification and the time allowed for its acceptance or rejection. The number of acceptances of the plan as modified required by subsection (b) shall be obtained. The plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file a written rejection of the modification with the court within such reasonable time as shall be allowed in the notice to that creditor of the proposed modification.

"SEC. 93. OBJECTION TO PLAN.—A creditor who holds a claim affected by the plan or a special tax payer affected by the plan may file with the court an objection to the confirmation of the plan. The Securities and Exchange Commission may also file with the court an objection to the confirmation of the plan, but in the case of an objection filed under this section, the Securities and Exchange Commission may not appeal or file any petition for appeal. An objection to the confirmation of the plan may be filed with the court any time prior to ten days before the hearing on the confirmation of the plan, or within such other time set by the court.

"SEC. 94. CONFIRMATION.—

"(a) HEARING ON CONFIRMATION.—Within a reasonable time after the expiration of the time set by the court within which the plan and any modifications of the plan may be accepted or rejected, the court



shall hold a hearing on the confirmation of the plan and any modifications of the plan. The court shall give notice of the hearing and of the time allowed for filing objections to all parties entitled to object under section 93. The court may, for cause shown, permit a labor union or employees' association, that represents employees of the petitioner, to be heard on the economic soundness of the plan affecting the interests of the represented employees.

"(b) CONDITIONS FOR CONFIRMATION.—The court shall confirm the plan if—

"(1) the plan is fair and equitable and feasible and does not discriminate unfairly in favor of any creditor or class of creditors;

"(2) the plan complies with the provisions of this chapter;

"(3) the plan has been accepted as required by section 92;

"(4) all amounts to be paid by the petitioner or by any person, not including other governmental entities, for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable;

"(5) the offer of the plan and its acceptance are in good faith; and

"(6) the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan.

"SEC. 95. EFFECT OF CONFIRMATION.—

"(a) PROVISIONS OF PLAN BINDING.—The provisions of a confirmed plan shall be binding on the petitioner and on any creditor who had timely notice or actual knowledge of the petition or plan, whether or not such creditor's claim has been allowed under section 88, and whether or not such creditor has accepted the plan.

"(b) DISCHARGE.—

"(1) The petitioner is discharged from all claims against it provided for in the plan except as provided in paragraph (2) of this subsection as of the time when—

"(A) the plan has been confirmed;

"(B) the petitioner has deposited the money, securities, or other consideration to be distributed under the plan with a disbursing agent appointed by the court; and

"(C) the court has determined—

"(i) that any security so deposited will constitute upon distribution a valid legal obligation of the petitioner; and

"(ii) that any provision made to pay or secure payment of such obligation is valid.

"(2) The petitioner is not discharged under paragraph (1) of this subsection from any claim—

"(A) excepted from discharge by the plan or order confirming the plan; or

"(B) whose holder, prior to confirmation, had neither timely notice nor actual knowledge of neither the petition nor the plan.

"SEC. 96. POSTCONFIRMATION MATTERS.—

"(a) TIME ALLOWED FOR DEPOSIT UNDER THE PLAN.—Prior to or promptly after confirmation of the plan, the court shall fix a time within which the petitioner shall deposit with the disbursing agent appointed by the court any consideration to be distributed under the plan.

"(b) DUTIES OF PETITIONER.—The petitioner shall comply with the plan and the orders of the court relative to the plan, and shall take all actions necessary to carry out the plan. The court may direct the

petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instrument required to effect a transfer of property under the plan and to perform such other acts including the satisfaction of a lien, as the court determines to be necessary for the consummation of the plan.

"(c) DISTRIBUTION.—Distribution shall be made in accordance with the provisions of the plan to creditors whose claims have been allowed under section 88. Distribution may be made at the date the order confirming the plan becomes final to holders of securities of record whose claims have not been disallowed.

"(d) COMPLIANCE DATE.—When a plan requires presentment or surrender of securities or the performance of any other action as a condition to participation under the plan, such action shall be taken not later than five years after the entry of the order of confirmation. A person who has not within such time presented or surrendered that person's securities or taken such other action required by the plan shall not participate in any distribution under the plan, and the consideration deposited with the disbursing agent for distribution to such person shall become the property of the petitioner.

"(e) CONTINUING JURISDICTION.—The court may retain jurisdiction over the case for such period of time as the court determines is necessary for the successful execution of the plan.

"(f) ORDER OR DECREE AS EVIDENCE AND NOTICE.—A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

"SEC. 97. EFFECT OF EXCHANGE OF DEBT SECURITIES BEFORE DATE OF THE PETITION.—The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result of any such exchange under the plan shall be included as acceptances of such plan in computing the acceptance required under section 92.

"SEC. 98. DISMISSAL.—

"(a) PERMISSIVE DISMISSAL.—The court may dismiss the case after hearing on notice—

"(1) for want of prosecution;

"(2) if no plan is proposed within the time fixed or extended by the court;

"(3) if no proposed plan is accepted within the time fixed or extended by the court; or

"(4) where the court has retained jurisdiction after confirmation of a plan—

"(A) if the petitioner defaults in any of the terms of the plan; or

"(B) if a plan terminates by reason of the happening of a condition specified therein.

"(b) MANDATORY DISMISSAL.—The court shall dismiss the case if confirmation is refused."

SEC. 2. SEPARABILITY.—If any provision of this chapter or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

SEC. 3. If the amendment made by this Act is judicially finally determined to be unconstitutional then chapter IX of the Bankruptcy Act, as such chapter IX existed on the day before the date of enactment of this Act, is revived and shall have full force and effect with respect to cases filed after such determination.

In lieu of the amendment to the title contained in the Senate engrossed amendment insert:

Amend the title so as to read "An Act to amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities."

## DESCRIPTION OF THE PROPOSED AMENDMENTS TO THE SENATE AMENDMENTS

The first proposed amendment amends the text of the bill. The second proposed amendment accepts the third Senate amendment, which amended the title of the bill, with an amendment to conform it to the amendment proposed by the first House amendment. There is no amendment to the second Senate amendment, which inserted a preamble after the title of the bill, because the Managers on the part of the House propose to recede from the House's disagreement with the Senate on the preamble.

## DISCUSSION OF FIRST PROPOSED HOUSE AMENDMENT TO THE SENATE AMENDMENTS

The first Senate amendment struck out all after the enacting clause of the bill, H.R. 10624, and inserted in lieu thereof the text of a Senate bill, S. 2597, as amended. This first proposed amendment adopts this Senate amendment with an amendment. The amendment is the proposed text of a compromise bill, set out above. What follows is a section-by-section analysis of the proposed text.

### PREAMBLE

The Senate amendment contained a preamble. The House bill had no comparable provision. The proposed text adopts the Senate language.

### CHAPTER

The House bill amended current Chapter IX of the Bankruptcy Act. The Senate amendment added a new Chapter XVI to the Bankruptcy Act. The proposed text adopts the House version.

### SECTION 81

The Senate amendment defined "attorney." S. § 802(1).<sup>1</sup> The House bill did not define the term. The proposed text adopts the House position.

<sup>1</sup> This citation, and all others beginning "S." are to the sections of the Senate amendment to the text of the House bill.

Paragraph (1) defines what claims are included in a chapter IX case. The House bill defined "claim" in general terms, H.R. § 81(1)<sup>2</sup>; H. Rep. 15.<sup>3</sup> The Senate amendment defined "claim" by enumeration of examples of claims. S. § 802(2). The proposed text adopts the House language. Because of the broad definition, all claims against the petitioner generally will be included, with one significant exception. Municipalities are authorized, under section 103(c) of the Internal Revenue Code of 1954, as amended, to issue tax-exempt industrial development revenue bonds to provide for the financing of certain projects for privately owned companies. The bonds are sold on the basis of the credit of the company on whose behalf they are issued, and the principal, interest and premium, if any, are payable solely from payments made by the company to the trustee under the bond indenture and do not constitute claims against the tax revenues or other funds of the issuing municipalities. The municipality merely acts as the vehicle to enable the bonds to be issued on a tax-exempt basis. It is not the intent of the Committee of Conference to include these industrial development bonds in a chapter IX case. Claims that arise by virtue of these bonds are not among the claims defined by this paragraph and amounts owed by private companies to the holders of industrial development revenue bonds are not to be included among the assets of the municipality that would be affected by the plan. See Cong. Record, 94th Cong., 1st Sess. H. 12073 (Statement by Mr. Don Edwards, Floor Manager of the bill in the House).

The House bill defined "debt". H.R. § 81(5); H. Rep. 16. The Senate amendment did not define the term. The proposed text adopts the House language.

The Senate amendment defined "lien" in sweeping terms designed to cover all types of liens and security interests. S. § 802(5). The House bill did not define the term. The proposed text adopts the Senate definition.

The House bill did not define "person". The Senate amendment defined "person" to include governmental entities. S. § 802(7). The proposed text adopts the Senate definition.

The House bill defined "petitioner". H.R. § 81(6); H. Rep. 16. The Senate amendment did not define the term. The proposed text adopts the House language.

The House bill defined "special taxpayer affected by the plan". H.R. § 81(8), (9); H. Rep. 16. The Senate amendment did not define the term S. § 809(b). The proposed text adopts the House language.

### SECTION 82

The House bill allowed certificates of indebtedness such priority over existing obligations as was equitable. H.R. § 82(b)(2); H. Rep. 17. The Senate amendment allowed such priority over existing obligations, and "other expenses of administration" as the court approved. S. § 811; S. Rep. 19.<sup>4</sup> The proposed text allows such priority over existing obligations and over costs and expenses of administration, not including operating expenses of the petitioner, as is equitable.

<sup>2</sup> This citation, and all others beginning "H.R." are to the sections of the House bill.

<sup>3</sup> This citation, and all others beginning "H. Rep." are to the committee report that accompanied the House bill, H. Rep. 94-686, 94th Cong., 1st sess. (1975).

<sup>4</sup> This citation, and all others beginning "S. Rep." are to the committee report that accompanied the Senate bill, S. 2597, whose text became the text of the Senate amendment to the text of the House bill, S. Rep. 94-458, 94th Cong., 1st sess. (1975).



The Senate amendment permitted the court to enforce the conditions attached to certificates of indebtedness, notwithstanding the limitation on the court's power prohibiting it from interfering with municipal powers in § 82(c); S. § 805(g); S. Rep. 17. The House bill had no comparable provision. The proposed text adopts the House version. The deletion of this provision from the Senate amendment is not meant to remove from the court of bankruptcy the jurisdiction or power to hear and decide disputes over noncompliance with certificates of indebtedness. Rather, because certificates are generally issued as short-term obligations, payable before or at confirmation of the plan, because the court is given exclusive personal jurisdiction over the petitioner for the purposes of this chapter under subsection (a), and because all judicial proceedings in other courts are stayed under section 85(e)(1), it is contemplated that the court of bankruptcy will be the only forum in which such disputes are determined.

The House bill vitiated the limitation on the court's power when the petitioner consented to a court action. H.R. § 82(c); H. Rep. 18. The Senate amendment contained no comparable provision. The proposed text adopts the House version.

The House bill prohibited any "order or decree" of the court from interfering with the petitioner's governmental powers. H.R. § 82(c); H. Rep. 18. The Senate amendment prohibited any "stay, order or decree" from so interfering. S. § 805(g). The proposed text adopts the Senate version as a clarification that the limitation on the court's power includes a limitation on the automatic stay of section 85(e)(1), which is not imposed by a court "order or decree".

The House bill prohibited court interference with "property of the petitioner". H.R. § 82(c)(2); H. Rep. 18-19. The Senate amendment prohibited court interference with "property of the petitioner necessary for essential governmental services". S. § 805(g). The proposed text adopts the House version.

The House bill prohibits court interference with any "income producing property". H.R. § 82(c); H. Rep. 18-19. The Senate amendment prohibits court interference with "the petitioner's use or enjoyment of any income producing property". S. § 805(g). The proposed text adopts the Senate version. See H. Rep. 18-19.

#### SECTION 83

The House bill deleted the proviso in current § 83(i) that prohibits state composition procedures. H.R. § 83; H. Rep. 2, 19. The Senate amendment retained the proviso. S. § 801(d); S. Rep. 15. The proposed text adopts the Senate version.

#### SECTION 84

This section defines which entities are eligible for relief under this chapter. The House bill included a "political subdivision or public agency or instrumentality". H.R. § 84; H. Rep. 20. The Senate amendment included the same terms, plus "municipality". S. § 803(a); S. Rep. 16. The proposed text adopts the House version.

The House bill required only that an entity not be "prohibited by state law from filing a petition under this chapter". H.R. § 84; H. Rep.

20. The Senate amendment required that the entity be "specifically authorized to file by the chief executive, the legislature or such other governmental officer or organization empowered under State law to authorize filing". S. § 803(a); S. Rep. 16. The proposed text requires general authorization by the legislature, or by a governmental officer (which includes the chief executive) or governmental organization (such as a Municipal Finance Commission) empowered by State law to authorize filing.

The House bill assumed the possibility of a filing by an entity subordinate to one already in a Chapter IX case. H.R. § 84, 85(a), 87(c); H. Rep. 20, 25-26. The Senate amendment made this explicit. S. § 803(b). The proposed text adopts the House version, because of the elimination from both bills of any restriction on the size of the entity that is eligible for relief under this chapter.

An additional eligibility requirement is inserted in the proposed text. It requires that the petitioner meet one of four conditions before it may seek relief under the chapter. The purpose of the provision is to limit accessibility to the bankruptcy court somewhat, as does current law, without making the accessibility requirement so stringent as to preclude relief in a situation in which the petitioner is confronted with stubborn or overly hasty creditors, or creditors whose identities are unknown because of the existence of a large number of bonds in bearer form.

#### SECTION 85

The House bill gave the governing body of an entity with no officials of its own the power to file a petition under this chapter. H.R. § 85(a); H. Rep. 20. The Senate amendment made no comparable provision. The proposed text adopts the House provision.

The House bill allowed 15 days from the completion of the publication of notice for filing a complaint objecting to the petition. H.R. § 85(a); H. Rep. 20-21. The Senate amendment allowed 30 days from the filing of the petition. S. § 806(a); S. Rep. 18. The proposed text adopts the House provision.

The House bill required the court to hear any objections to the petition in a single proceeding to the extent practicable. H.R. § 85(a); H. Rep. 21. The Senate amendment contained no similar requirement. The proposed text adopts the Senate version.

The Senate amendment allowed dismissal of the petition if it did not meet the provisions of the chapter, or if the petitioner did not file the petition in good faith. S. § 806(1); S. Rep. 18. The House bill had no comparable provision. H.R. § 84; H. Rep. 20. The proposed text adopts the Senate language.

The Senate amendment prohibited interlocutory appeals from a finding of jurisdiction, in order to prevent delay in the proceedings and increase the marketability of certificates of indebtedness. The House bill had no comparable provision. S. § 806(c); S. Rep. 18. The proposed text includes compromise language designed to achieve the same result. It prohibits any delay of the proceedings because of an appeal from a finding of jurisdiction, and any stay pending such an appeal. It also specifies, in an attempt to codify the result currently achieved in chapter X, that the reversal on appeal of a finding of juris-



diction shall not, in and of itself, affect the validity of any certificate of indebtedness.

Subsection (b) describes the requirements of the list of creditors. The House bill required a list of all of the petitioner's creditors. H.R. § 85(b); H. Rep. 21. The Senate amendment required a list of only those creditors who would be affected by the plan; S. § 804(a); S. Rep. 17; and added the requirement that the list of creditors contain the name, address, and character of the claim of each creditor; S. § 809(a). The proposed text adopts the House position plus the Senate addition, but eliminates the requirement in the House bill that the petitioner state in the petition the reason an identification of a creditor is impracticable.

The Senate amendment also required that the list of creditors contain the character of the claims of unidentified creditors; S. § 809(a); and required that the list of creditors be supplemented as the petitioner became able to identify previously unidentified creditors. S. § 809(a). S. Rep. 19. The House bill contained no similar requirement. H. Rep. 21. The proposed text adopts the Senate language, in order to accommodate the identification of holders of bearer bonds.

The House bill made the list and notice requirements mandatory, H.R. § 81(8), (9), 85(b), (d), 90(b); H. Rep. 21, 22, 29. The Senate amendment permitted the court to modify these requirements. S. § 809(c); S. Rep. 19. The proposed text adopts the House version.

The House bill required the court to give all notices. H.R. § 85(d); H. Rep. 22. The Senate amendment required the petitioner, or such other person as the court designated, to give notice. S. § 807(a); S. Rep. 18. The proposed text adopts the Senate language.

The Senate amendment required mailing of notice to creditors who were identified after the initial mailing of notice. S. § 807(a). The House bill had no comparable provision. The proposed text adopts the Senate version.

Subsection (e) grants an automatic stay of actions seeking to enforce claims. The House bill stayed "a proceeding against the petitioner, its property or any officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner." H.R. § 85(e)(1); H. Rep. 22-23. The Senate amendment stayed a "proceeding against the petitioner; its property or any officer or inhabitant of the petitioner, or which seeks to enforce any claim against the petitioner"; S. § 805(a); S. Rep. 17; or which seeks to enforce a lien on taxes or assessments; *id.* The proposed text adopts the House provision for the first portion, but adds and amplifies the second portion on taxes.

The House bill and the Senate amendment required a hearing on a complaint seeking relief from the automatic stay. H.R. § 85(e)(3); H. Rep. 23. S. § 805(d). Only the Senate amendment required the hearing at the earliest possible date. S. § 805(d). The proposed text adopts the Senate provision.

Subsection (e) also specifies conditions to additional stays. The House bill prohibited the court from requiring the petitioner to post security as a condition to an additional stay. H.R. § 85(e)(4); H. Rep. 23. The Senate amendment made security discretionary with the court. S. § 805(e); S. Rep. 17. The proposed text adopts the Senate version.

Subsection (g) allows recovery of set-offs effected before the filing of the petition. The House bill made set-offs within four months of the petition recoverable. H.R. § 85(g); H. Rep. 2. The Senate amendment set the time at three months. S. § 805(b)(2); S. Rep. 17. The proposed text adopts the House provision.

This subsection also specifies the protection the court may require the petitioner to furnish as a condition to recovery of a set-off. The House bill allowed "protection for the realization by the person against whom recovery is sought of the claim which arises by reason of the recovery". H.R. § 85(g); H. Rep. 3. The Senate amendment allowed "such protection as will adequately protect the person who is asserting the right of set-off". S. § 805(b)(2). The proposed text adopts the House version.

Subsection (h) makes some of the avoiding powers of the Bankruptcy Act available in Chapter IX. The Senate amendment made applicable sections 60a, 60b, 60c, 67, 70c, and 70e. S. § 801(e); S. Rep. 16. The House bill contained no comparable provision. The proposed text makes only sections 60a, 60c, 67a, 67d, 70c, 70e(1), and 70e(2), and the first three sentences of section 60b apply. The exclusion of only the last sentence of section 60b and of section 70(e)(3) is meant to confer exclusive jurisdiction of actions under the applicable sections on the federal district courts, and to withdraw concurrent jurisdiction from the State courts. These sections apply as though the petitioner were the trustee, debtor or bankrupt, thus transferring the avoiding powers to the petitioner itself, without the need for the appointment of an independent trustee. However, if the petitioner refuses to pursue a cause of action based on those sections, this section permits the court, on the application of a creditor, to appoint a trustee to pursue the cause of action. The trustee is given no other powers. The definition of person in section 81(7) is not intended to enlarge the scope of the avoiding powers when applied in Chapter IX. The definition of person found in section 1(23) of the Bankruptcy Act continues to be the proper definition in the construction of those sections when applied in this chapter.

#### SECTION 87

Subsection (a) allows special reference of certain matters. The House bill allowed reference only to a referee in bankruptcy. H.R. § 87(a); H. Rep. 25. Reference is to be the exception and not the rule, *id.* The Senate amendment allowed reference to referees and to special masters, S. § 822(a); S. Rep. 22; and allowed compensation for special masters, *id.* The proposed text adopts the House version.

The Senate amendment provided that appeals from orders granting or denying compensation in the case should be heard summarily. S. § 822(b); S. Rep. 22. The House bill contained no comparable provision. The proposed text adopts the Senate language.

Subsection (e) allows joint administration of cases filed by related entities. The House bill allowed such joint administration. H.R. § 87(c); H. Rep. 25-26. The Senate amendment allowed joint administration only of cases filed by subordinate entities. S. § 803(b); S. Rep. 16. The proposed text adopts the House version.

## SECTION 88

Subsection (b) requires classification of creditors. The House bill provided the criteria of substantially similar claims and rights. H.R. § 88(b); H. Rep. 27. The Senate amendment used the existing chapter XI criteria. S. § 814(c); S. Rep. 20. The proposed text adopts the House language.

Subsection (b) also allows classification of small claims in a single class for administrative convenience. The House bill allowed such classification for claims under \$100. H.R. § 88(b); H. Rep. 27. The Senate amendment allowed no such classification. S. § 814(c). The proposed text adopts the House version, but compromised the amount at \$250.

The Senate amendment required a court hearing and determination of any dispute over the classification of creditors. S. § 814(d). The House bill had no comparable provision. The proposed text adopts the Senate provision.

## SECTION 89

Paragraph (2) gives a priority to debts owed for services and materials provided shortly prior to the petition. The House bill gave the priority for "debts or consideration owed for services and materials actually provided within four months" before the date of filing the petition. H.R. § 89(2); H. Rep. 28-29. The Senate amendment gave the priority for "debts owed for services and materials directly provided within two months" prior to the petition. S. § 812(2); S. Rep. 20. The proposed text allows a priority for "debts owed" (Senate language), in order to make clear that the claim involved must be liquidated; for "services and materials actually provided" (House language); "within three months" (compromise language).

## SECTION 90

The House bill allowed only the petitioner to modify the proposed plan. H.R. § 90(a); H. Rep. 29. The Senate amendment allowed the petitioner or any creditor, with the petitioner's consent, to propose a modification of the plan, and required a court hearing. S. § 815; S. Rep. 21. The proposed text allows the petitioner or any creditor, with the petitioner's consent, to modify, but does not require a court hearing.

Subsection (b) specifies the time within which creditors must accept or reject the plan. The House bill directed the court to set a time. H.R. § 90(b); H. Rep. 29. The Senate amendment set the time at 90 days from the time of filing the plan, unless the court, for good cause, set some other time. S. § 807(b). The proposed text adopts the Senate provision.

The Senate amendment required that the court hold a hearing and determine any dispute over whether a claim is affected by the plan. S. § 814(d). The House bill had no comparable provision. The proposed text adopts the Senate provision.

## SECTION 92

Subsection (b) specifies the acceptances required to confirm a plan. The House bill required acceptances of creditors holding two-thirds in amount of the claims of each class with respect to which an acceptance or rejection was filed. H.R. § 92(b); H. Rep. 30. The Senate amendment required acceptances by two-thirds in amount, and 51% in number. S. § 814(a); S. Rep. 20-21. The proposed text requires two-thirds in amount and "more than fifty percent in number". S. Rep. 21.

The House bill permitted temporary allowance of claims for the purpose of accepting or rejecting the plan. H.R. § 92(a); H. Rep. 30. The Senate amendment did not permit temporary allowance. The proposed text permits temporary allowance, as in the House bill, but does not permit acceptances or rejections filed for such temporarily allowed claims to be counted in computing the acceptances required for confirmation unless the claim has been finally allowed under section 88. See § 92 (b) and (c).

Subsection (d) describes those creditors whose acceptances are not required. The House bill followed the current Chapter IX provision. H.R. § 92(d); H. Rep. 31. The Senate amendment adopted the Chapter X provision. S. § 814(a); S. Rep. 21. The proposed text adopts the House version.

## SECTION 93

The House bill allows the S.E.C. to object to a plan. H.R. § 93; H. Rep. 31. The Senate amendment did not permit the S.E.C. to object. S. § 816. The proposed text adopts the House provision.

The Senate amendment required service of a complaint objecting to the plan on the petitioner and others designated by the court. S. § 816. The House bill had no comparable provision. The proposed text adopts the House version.

## SECTION 94

The Senate amendment required the court, for cause shown, to permit a labor organization to be heard on the economic soundness of a plan affecting employees. S. § 808(b); S. Rep. 18. The House bill had no comparable provision. The proposed text adopts the Senate version, but makes the hearing permissive.

The House bill required the plan to be "fair and equitable and feasible". H.R. § 94(b)(1); H. Rep. 32-33. The Senate amendment required that it appear "from the petitioner's current and projected revenues and expenditures that the budget of the petitioner will be in balance within a reasonable time after adoption of the plan". S. § 817(c)(7); S. Rep. 21. The proposed text adopts the House version on the premise that the Senate's balanced budget requirement will be a factor that must be considered by the court as part of the court's determination that the plan is "fair and equitable and feasible".

The House bill required that the petitioner not be prohibited by law from taking any action required to be taken under the plan. H.R. § 94(b)(5); H. Rep. 33-34. The Senate amendment required that the

petitioner be authorized by law to take such action. S. § 817(c)(6); S. Rep. 21. The proposed text adopts the House version.

## SECTION 95

The House bill required the court to appoint a disbursing agent. H.R. § 95(b); H. Rep. 34. The Senate amendment made no comparable provision. The proposed text adopts the House provision.

The House bill discharged the petitioner from its debts. H.R. § 95(b); H. Rep. 34. The Senate amendment extinguished the petitioner's debts. S. § 818(b); S. Rep. 21-22. The proposed text adopts the House language.

The House bill granted a discharge only after confirmation of the plan, deposit of consideration, and court determination of the validity of the consideration. H.R. § 95(b)(1); H. Rep. 34. The Senate amendment granted a discharge at the time of confirmation. S. § 818(b); S. Rep. 21-22. The proposed text adopts the House version, but expands the deposit requirement to "money, securities or other consideration".

The House bill did not discharge claims of creditors who had neither actual knowledge nor constructive notice of the case. H.R. § 95(b)(2)(B); H. Rep. 34. The Senate amendment discharged such claims. S. § 818(b). The proposed text adopts the House version.

## SECTION 96

The House bill required the court to fix a time for deposit of the consideration to be distributed under the plan. H.R. § 96(a); H. Rep. 34. The Senate amendment contained no similar requirement. The proposed text adopts the House provision.

The Senate amendment permitted the court to direct the petitioner to take certain actions to execute the plan. S. § 819(e). The House bill had no comparable provision. H. Rep. 34. The proposed text adopts the Senate language.

Subsection (e) allows the court to retain jurisdiction of the case after confirmation of the plan. The House bill allowed retention only to assure successful execution of the plan. H.R. § 96(e); H. Rep. 35. The Senate amendment also allowed retention to assure discharge of securities issued under the plan. S. § 821; S. Rep. 22. The proposed text adopts the House version with the understanding that the court retain jurisdiction over any action on any security issued under the plan or certificate of indebtedness issued in the case.

## SECTION 97

The House bill validated the pre-petition exchange of debt securities under a proposed plan. H.R. § 97; H. Rep. 35. The Senate amendment made no comparable provision. The proposed text adopts the House provision.

## OTHER MATTERS

The Senate amendment invalidated all State laws which would have had the effect of depriving a petitioner of the effect of confirmation. S. § 824. The House bill made no comparable provision. The proposed text deletes the Senate provision, and instead relies on the case of *Perez v. Campbell*, 400 U.S. 818 (1971).

The Senate amendment allowed conversion of a case from a chapter IX to a chapter XVI case. The House bill has no comparable provision. The proposed text adopts the House version.

DON EDWARDS,  
JOHN SEIBERLING,  
ROBERT F. DRINAN,  
HERMAN BADILLO,  
CHRISTOPHER J. DODD,  
M. CALDWELL BUTLER,  
THOMAS N. KINDNESS,

*Managers on the Part of the House.*

QUENTIN BURDICK,  
PHILLIP A. HART,  
JIM ABOUREZK,  
ROMAN L. HRUSKA,  
HIRAM L. FONG,

*Managers on the Part of the Senate.*

○



THE WHITE HOUSE  
WASHINGTON

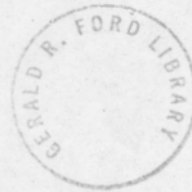
March 30, 1976

MEMORANDUM FOR: MAX L. FRIEDERSDORF  
FROM: CHARLES LEPPERT, JR. *CL*  
SUBJECT: Economic Highlights

Attached hereto, is the next report in a regular series of economic highlights prepared by the Minority Staff of the House Appropriations Committee, sent by Rep. John Anderson.

Attachment

cc: Marsh  
Seidman  
Lynn  
Cannon



CHAIRMAN  
JOHN B. ANDERSON, M.C.  
16TH DISTRICT, ILLINOIS

VICE-CHAIRMAN  
SAMUEL L. DEVINE, M.C.  
12TH DISTRICT, OHIO

SECRETARY  
JACK EDWARDS, M.C.  
1ST DISTRICT, ALABAMA

Room 1618  
LONGWORTH HOUSE OFFICE BUILDING  
202-225-5107

DAVID A. STOCKMAN  
EXECUTIVE DIRECTOR

**Republican Conference**  
**U.S. House of Representatives**  
**Washington, D.C. 20515**

**ECONOMIC HIGHLIGHTS**

Prepared by  
Henry Moore  
Minority Staff  
Committee on Appropriations

March 18, 1976



**Introduction**

This report is prepared on an approximate monthly schedule during this legislative session, to highlight latest important changes in the U.S. economy. Each issue is usable without reference to predecessor. Comparisons show monthly or quarterly changes at seasonally annual rates unless otherwise stated.

**Summary**

U.S. economic recovery continues at a brisk pace in 1st quarter 1976, with an upturn in growth of GNP, increased factory hiring, an improved overall employment situation with the best-known unemployment indicator down strongly, good gains in personal income and a strong improvement in leading indicators, while the price outlook continues to show declining inflation.

**Key Economic Indicators:**

1. The employment situation improved as total jobs rose and total jobless declined in February, according to latest U.S. Labor Department figures (USD L 76-159). Emphasizing seasonally adjusted figures, which smooth seasonal factors and seek to portray trends, the report shows total jobs returning in February to the prerecession peak of 86.3 million and those unemployed declining in February to 7.1 million, as seasonally adjusted. The jobless rate dropped to 7.6% in February from 7.8% in January, 8.3% in December, and 8.6% in October, as seasonally adjusted, indicating a strong 4-month trend gain.

2. Key unemployment rates generally improved with exceptions showing these January to February changes: Adult men jobless declined to 5.1% from 5.8%, adult women unchanged at 7.5%, while household heads dropped to 4.9% from 5.1%, Black and minority jobless rose to 13.7% from 13.2%, teenagers down to 19.2% from 19.9% but minority teenagers up by 0.6% to 35.2%.

3. Factory hiring rose in January, up nearly 16% over December, achieving the best pace since the July 1974 peak, tending to confirm trend figures showing a broader employment upswing.

4. Orders and output at U.S. corporations were better last month than in nearly three years, a survey of purchasing agents showed. Other findings indicated an end inventory liquidation and increased commitments for production materials.

5. Price outlook continues improvement as wholesale prices declined  $\frac{1}{2}\%$  in February, while consumer prices rose more slowly in January (February report due later).

a. Wholesale prices either declined or were unchanged overall for the last four months, industrial commodities moved up more slowly in February (at 0.3%, down from 0.4%), with non-metallic minerals down, fuels and power down, lumber and wood products down, and farm products down.

b. Consumer prices rose more slowly in January, continuing a 4-month trend from October onward, with same food and fuels lower, non-food commodities lower, and a wide range of services up about 1%.

6. Industrial production continued to rise in January, the 9th straight month, registering widespread gains by industry with consumer goods up 1%, business equipment and construction products up 0.7% and the overall industrial production index up 0.7% in January and about 4.9% over the year.

7. Personal Income rose about 1% in January to \$1,313.8 billion annually, tripling the December gain and up 9.2% above a year ago. Private wage and salary payrolls rose \$9 billion, about double the December gain and up 8.8% over the year. Service industries rose \$2 billion over the month, 5 times the December gain, up 8.7% over the year.

8. Gross National Product, a measure of the nation's total output of goods and services, was estimated as rising at about 6.6% annually in January, according to Townsend-Greenspan & Co. of New York. This would show strong improvement over the 4.9% real output gain (GNP adjusted for price changes) reported for fourth quarter 1975.

9. New factory orders for durable goods showed a strong 2.3% monthly gain in January, nearly double the rate of preceding three months, rising about \$1 billion to a \$43.8 billion monthly rate. New machinery orders rose 9.8% and household durables rose 3% over the month.

10. The average workweek of production and non-supervisory workers has risen unevenly over the past year, up 1.5 hours over the year to 36.5

hours weekly, down 0.1 hour since January. Factory overtime held steady at three hours for the third straight month.

11. Average hourly earnings of production and non-supervisory workers rose 0.4% in February, gaining 7.2% over last February, while weekly earnings grew 0.2% in February and rose 8.9% over the year.

12. The U.S. economy's first quarter performance appears better than recent forecasts, according to the Commerce Department's index of leading indicators, just released. The January rise in the Index was 2.2%--about 26% annualized--the third consecutive monthly rise and largest since last July.



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Jack Anderson

## He Thrives on the Heat'

While the public gaze is upon the presidential candidates, a few less ambitious men are campaigning quietly for the vice presidency.

One of the most promising is Treasury Secretary William Simon, a plain-spoken man, who has been loyal to President Ford but has managed to please the Ronald Reagan conservatives at the same time.

Washington wisemen are saying that

I forget about it." His castigations are couched in controlled but scathing lectures, which leave no question as to what the errant subordinate should have done.

His firmness, however, is always professional, never personal. His flashes of approval, accompanied with a folksy

49-year-old Simon was extraordinarily active, channeling his furious energy into golf, tennis and paddleball. But these are activities which he now indulges in only rarely.

An avid gun collector ("It's also a sound investment"), he told my associate Jim Grady sadly: "I haven't touched a trigger since I came to Washington."

But if he doesn't move up to the vice presidency, he may soon be touching triggers again. For he said, without any particular trace of weariness: "I'm going home." Home is New Vernon, N.J., where the Simons have a house they worked on for four years but lived in for only two days before moving to Washington.

Then relapsing into romantic whimsy, he said that author Rafael Sabatini summed up Bill Simon in the first sentence of the swashbuckling novel "Scaramouche": "He was born with a gift of laughter, and a sense that the world was mad."

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To:  
Jim Cannon  
FYI

Jack



*Economy*THE WHITE HOUSE  
WASHINGTON

April 14, 1976

MEMORANDUM FOR:

JIM CANNON

FROM:

PAUL LEACH *Paul*

SUBJECT:

Financial Institution  
Legislation

The legislation situation in the financial institutions area is in a state of flux. I have been talking with OMB, the Treasury and Steve Gardner at the Federal Reserve about this. Also, the EPB has discussed it recently. With the caveat that the situation is uncertain and changing, the following brief outline of the situation may be of interest.

Background

The Financial Institutions Act of 1975 (FIA) --- a major Administration effort at regulatory reform --- was introduced in Congress as S. 1267 by Senator Proxmire on March 20, 1975. The Bill calls for increased competition among existing financial institutions (commercial banks, savings and loans, credit unions, etc.) by:

- (1) Removing, after a 5-1/2 year adjustment period, the present federal interest rate ceilings on savings deposits.
- (2) Expanding the lending, investment and deposit powers of all institutions to permit them to offer a wider range of services to customers.
- (3) Insuring a more stable source of mortgage financing through the introduction of new tax incentives for individuals and corporations who maintain at least ten percent of their assets in residential mortgages.

Other key features of the Administration's FIA bill call for abolishing interest rate ceilings on VA and FHA mortgages and for new Truth-in-Savings provisions.



### Senate Action on S.1267

S. 1267 passed the Senate (79-14) on December 11, in substantially the same form proposed by the Administration. However, the Finance Committee, and later the full Senate, must still consider the mortgage interest tax credit (MITC), which was viewed by the commercial banks and the housing industry as the guid pro quo for the increased powers to be granted to thrift institutions. The Senate Finance Committee will not consider the MITC until approved by the Ways and Means Committee and the House. And until the MITC proposal is enacted, the other parts of the Senate-passed bill will not be sent on to the House.

### Other Senate Actions

Meanwhile, Senator Proxmire has temporarily withdrawn his bill (S. 2298) which would restructure the existing bank regulatory agencies. The Administration opposes this bill.

Hearings have been held on S. 2304 which seeks to establish new guidelines for dealings between banks and "insiders" and which would impose new penalties for violations. The Administration favors this legislation.

The Banking Committee is presently marking up legislation (S. 1475) which would restructure the National Credit Union Administration. Treasury has opposed enactment of bills which would change the regulatory agencies before any major changes have been achieved in the structure of the industry.

Finally, a mark-up is scheduled for S. 958 which would impose new reporting requirements on foreign banks operating within the United States. The Administration favors some changes in treatment of foreign banks in the U.S. Chances for Senate passage appear to be about 50 percent at this time.

### House Background

The House Banking Committee completed its Financial Institutions (FINE) study in January and hearings on a committee draft of the Financial Reform Act (FRA) were conducted in March. The bill departed significantly from the Administration's FIA, and called for major restructuring of the banking regulatory agencies. The Administration testified against premature disruptions to the present constellation of agencies and urged the committee to adopt a bill --- along the lines of FIA --- which would permit existing financial institutions to compete more effectively.

On March 30, the Democrats on the Banking Committee voted to abandon the draft FRA in favor of three separate pieces of legislation.

#### Federal Reserve Reform

The first of these pieces, H.R. 12934, calls for a number of administrative changes in the terms and powers of the Board of Governors of the Federal Reserve and the Presidents and Boards of the twelve district banks. The Federal Reserve has expressed a number of objections and the Administration will probably oppose this bill. The remaining proposed changes in other bank regulatory agencies were dropped for the present time. Congressman Reuss very much wants action on this bill. Mark-up, which was scheduled for April 13, has now been delayed until after the recess. Opponents hope that cooler heads will prevail and that action can be delayed long enough to overcome the pressure for "some kind of bill".

#### FIA-type Legislation

The second piece of legislation, H.R. 13077, introduced April 8, deals with changes in the industry's structure and competitiveness. It does not contain provisions important to the Administration and part of the Senate-passed bill (definite timetable for removing Regulation Q, inclusion of the MITC). Efforts to find committee members --- chiefly GOP --- willing to introduce FIA as a potential substitute have not been fruitful. In addition, the Ways and Means Committee has shown no interest in discussing the tax credit idea (MITC) and interest group lobbyists (primarily, bankers, home builders and unions) have been exercising substantial muscle to defeat any FIA-type bill. Committee action seems dubious at this time and Treasury's current tentative thinking is that the Administration should probably hold back until the furor dies down before pushing for FIA.

#### Foreign Banks

A third bill, not yet introduced, will deal with new regulations on foreign banks operating in the U.S. Possible Senate action on S.958 may encourage the Committee to consider and move on this piece later this spring. A bill acceptable to the Administration can probably be fashioned.

Other Bills

House Committee action on H.R. 10049 (companion to S. 2304 noted above) which calls for increased penalties for inside dealings will probably be favorable. The Administration has been encouraging this approach as an alternative to major agency restructuring.

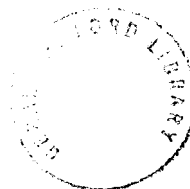
House action on credit union legislation is uncertain.

Attached Materials

At Tab A is the most recent report of the Task Force on Banking Regulation to the EPB.

At Tab B is the most recent Treasury testimony by Deputy Secretary George Dixon on this subject.

cc: Art Quern





THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

March 16, 1976

MEMORANDUM FOR THE ECONOMIC POLICY BOARD

SUBJECT: Report of Task Force on Banking Regulation

General

At the February 17 meeting of the EPB Steve Gardner summarized pending legislation in the financial institutions area. That same week Democrats of the House Banking Committee caucused on a proposal to cast their FINE study discussion principles into an omnibus bill called the Financial Reform Act of 1976. A Committee print of that bill was released on February 25 and Treasury testified on March 11.

The Banking Committee's bill contains provisions to restructure the asset and liability powers of depository institutions along lines suggested by the Financial Institutions Act. In addition, it provides for the consolidation of the Comptroller of the Currency and the bank regulation and supervision functions of the Federal Reserve Board into a new, independent agency called the Federal Banking Commission. The role of the FDIC would be altered to rely more heavily on state examination and supervision. Provisions of the bill would also subject the banking regulatory agencies to the appropriations process.

The EPB concurred with a Treasury suggestion that a task force be established including OMB and CEA to develop an Administration position for EPB discussion. A position paper proposing opposition to any consolidation of the banking regulatory agencies at the present time was prepared and transmitted to EPB members on March 5, 1976. That paper, coupled with our continuing support of the Financial Institutions Act, formed the basis for Treasury testimony on March 11, a copy of which is attached.

Summary of Treasury Testimony

- A. Administration has long term interest in financial reform dating back to the Hunt Commission.
- B. The Financial Institutions Act of 1975 represents real reform and the Committee should incorporate the relevant provisions in its Financial Reform Act.

C. Regulatory agency reorganization is not desirable at the present time.

- Despite the hysteria of recent press reports the banking system is sound and there is time to consider any changes in the structure of the regulatory agencies in an atmosphere more conducive to care and deliberation.
- The advantages of the present system are significant. It is important that the Federal Reserve retain its regulatory function to provide a "feel" for what is happening in the banks. Three independent agencies lead to creative, innovative approaches to regulation. Centralized regulation of banks could jeopardize the dual banking system.
- The Committee should proceed now to enact the strengthened enforcement powers requested by the banking regulatory agencies.
- The Administration would be willing, later on, to participate with the Congress in a careful study of the structure of regulation. In the meantime Congress should move ahead with the FIA.

#### Regulatory Reorganization and the Conduct of Monetary Policy

Consolidation of the bank regulatory agencies could make the conduct of monetary policy more difficult for the Federal Reserve. Regulatory and supervisory changes can affect banks' demands for reserves. An example is the recent November 1975 regulatory change allowing commercial banks to offer savings accounts to profit-making organizations. To the extent that the effects of such regulatory changes are unpredictable, or if the Federal Reserve is not informed quickly enough, the conduct of a stable monetary policy may be made more difficult. Consolidation would also further divorce the power of the Federal Reserve to monitor the banking system's liquidity from its responsibility as lender of last resort to rescue any bank which does become dangerously illiquid. Thus, the Fed would have less information with which to judge what the stance of monetary policy should be when situations of illiquidity arise. Moreover, the Fed would be left with some of the burdens of regulatory mistakes because of its lender of last resort function, but it would lose the control it now has to guard against such mistakes.

EPB/Treasury Action

The next move is up to the House Banking Committee which must decide whether to push the matter of regulatory agency consolidation forward in view of Administration and industry opposition. Hopefully, the Committee will defer action on consolidation and move ahead with structural reform. The Senate Banking Committee must make a similar decision with respect to its own regulatory agency legislation.

Consistent with our testimony, we should not formally undertake further study of the issues raised by the regulatory agency consolidation proposals at the present time. To do so might be interpreted as a willingness to compromise our position. If the Banking Committees decide to defer action on these proposals then the task force should be re-convened to consider questions raised by the bills which might include:

1. Should the banking regulatory agencies be subject to the appropriations process?
2. Should the Comptroller of the Currency continue to be administratively part of the Executive branch?
3. Should the office of the Comptroller be headed by an individual or a board?
4. Should the duties of the existing regulators be rearranged in any way to increase effectiveness?
5. Should the functions of the coordinating committee be altered?

cc: Secretary Simon, Messrs. Yeo, Gerard, Snyder, McDowell, Connelly



A handwritten signature in dark ink, appearing to read "George H. Dixon".

George H. Dixon





STATEMENT BY THE HONORABLE GEORGE H. DIXON  
DEPUTY SECRETARY OF THE TREASURY  
BEFORE THE  
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS  
SUPERVISION, REGULATION AND INSURANCE  
HOUSE COMMITTEE ON BANKING, CURRENCY AND HOUSING  
THURSDAY, MARCH 11, 1976, 10:00 a.m.

Mr. Chairman and Members of this Committee:

I appreciate this opportunity to testify on behalf of the Treasury Department and the Administration.

As you know, for six years, beginning with the appointment of the Hunt Commission, this Administration has sought, as a principal legislative objective, the enactment of comprehensive financial reform--the Financial Institutions Act. Now this Committee has the opportunity to take an important step toward enactment of the most far-reaching financial legislation in 40 years, legislation that will serve the general public interest and provide benefits for growing numbers of users of financial services. This Administration continues to be a strong advocate of financial reform. We want to work with you to achieve it.

The philosophy underlying the FIA is quite direct: if we increase competition among financial institutions, we will enhance the quality and reduce the cost of financial services to consumers, and at the same time strengthen the institutions themselves. Such legislation will be of particular benefit to thrift institutions since it should help them avoid the cyclical episodes of disintermediation which have impinged so heavily on their ability to finance housing. We are convinced that the time to act on this legislation has come.

The Hunt Commission's recommendations regarding financial structure reform were first reflected in Administration legislation introduced in 1973. Hearings were held by Senator McIntyre's Subcommittee in both 1973 and 1974 and the bill was reported by the full Senate Banking Committee in December 1974. Throughout this period and into early 1975, the Treasury Department, on behalf of the Administration,

carefully surveyed the views of the affected institutions and those of interested members of the public, including representatives of consumer groups.

Then in March 1975, the bill was reintroduced with some important improvements that had resulted from this careful review process. And, finally, on December 11, with a significant amendment allowing the payment of interest on demand deposits, the Financial Institutions Act of 1975, including the first six titles of the Administration's bill, but excluding Title VII, which incorporated the Mortgage Interest Tax Credit, passed the Senate by a vote of 79-14.

Your own study, Financial Institutions in the Nation's Economy, also took up the issues presented by the Financial Institutions Act and made them the subject of extensive hearings and discussion. The basic elements of fundamental financial reform, therefore, have become well established and are now ripe for enactment.

A principal and important thrust of FIA is to increase competition. In the past the institutional structure of the private financial institutions that make up our unique system has kept them from being fully competitive. The government, both through legislation and regulation, has been a party to this circumstance. By encouraging greater competition, the bill will provide new opportunities for savers to receive a competitive rate of return on their savings while, at the same time, provide home buyers with greater assurance that the availability of funds for home mortgages will not be disrupted during periods of high interest rates and competition for investment funds.

The FIA is designed to increase the strength of our financial institutions, particularly the thrift institutions, by permitting them, and equipping them, to respond more readily to economic change, whether long-run evolutionary change or short-run changes in the immediate economic environment. The consumer will be the clear beneficiary.

Specifically, the FIA will enable savings and loan associations and mutual savings banks to offer checking accounts and negotiable order of withdrawal accounts to both business and individuals (Section 202(c)). It will allow them to diversify a portion of their assets into consumer loans, unsecured construction loans, commercial paper, and certain high-grade private debt securities (Section 301). Credit unions also will be allowed to offer checking account services and mortgage loans to members, make a wider range of loans at more varied interest rates, and establish a limited liquidity facility (Title V).

To improve the overall availability of mortgage credit, and to provide greater stability in the availability of mortgage credit, commercial banks, savings and loan associations, and other lenders will be given a tax credit incentive to enlarge their mortgage lending. The tax credit incentive will be on a graduated scale, ranging from 1.5 percent to 3.83 percent, depending upon the proportion of assets invested in residential mortgages. (Title VI)

In addition, to benefit the saver, the FIA provides for the elimination of Regulation Q 5-1/2 years after the effective date of the Act (Section 103).

The Administration seeks financial institutional reform which is both balanced and competitively fair. Debates on the meaning of fairness, and the reasonableness of new proposals are part of the give and take that must always accompany the creation of a new order of things. Such debates can be endless. The aims of the FIA have been to strengthen the Nation's system of financial institutions, promote competition, increase the availability of consumer financial services, and to treat institutional groups even handedly.

We believe, Mr. Chairman, that FIA is a useful legislative road map. Against this background, three principal aspects of your Financial Reform Act cause us concern.

First, we believe all institutions should be permitted to accept demand deposits or other third-party payment accounts.

Demand deposits represent a source of funds which at their core should be stable in volume and cost and relatively immune to disintermediation. The ability to offer such accounts will materially assist thrift institutions in competing on both a price and service basis with commercial banks. We are at a loss to understand the FRA proposal to grant these powers to savings and loan associations and credit unions only if the laws of individual States are also changed to permit such accounts. The "McFaddenizing" of deposit powers would be counterproductive in terms of the overall direction of financial reform. The merits are all in the direction of making these powers universal.

As you may know, we have also accepted the provision in the FIA which would permit the payment of interest on demand accounts. This is clearly in the interests of consumers.

Second, we are strongly opposed to the provisions of FRA which would require a 1/4 percent differential for thrift institutions and banks which maintain a specified percentage of housing-related and liquidity assets. We doubt that to use the differential as an incentive to provide funds for housing will succeed. Thrift institutions, by desire, experience, and tradition, will continue to invest the bulk of their resources in housing as they do now. Commercial banks, on the other hand, will think long and hard before opting to qualify by increasing their mortgage lending. I would estimate that few commercial banks would do so. The trade-offs between higher interest costs for deposits and the consequences of an altered asset mix for sound balance sheet and earnings management will be difficult to analyze.

I hardly need remind the Committee that Regulation Q has not protected our financial institutions from disintermediation and has almost certainly contributed to the scarcity of mortgage credit in high interest rate periods. It has done this largely at the expense of savers who, in the end, are the key to the availability of funds for housing and for all others forms of investment. Traditionally, the objective of the differential has been to allow thrift institutions to pay a higher rate of return on deposits as an offset to their inability to offer the same range of consumer services as banks. Once these services have become substantially equal for both deposits and loans, we believe that the regulatory agencies in the interest of competition should have discretion to and should in fact eliminate the differential. To eliminate the differential is in part, therefore, a matter of achieving competitive equity.

Thus, we propose again that Regulation Q be eliminated within five and one-half years and that regulators be entrusted to accomplish this and to adjust or to eliminate the differential in the interest of consumers, the availability of mortgage credit, and of fair competition.

Third, we oppose the proposal to use the Federal Home Loan Bank System and the Treasury Department to finance the mortgage market. We believe that it would lead to an unnecessary extension of a direct federal role in the mortgage market. It would tend to raise the cost of all Treasury borrowing during tight-money periods, and would encourage disintermediation. Thus, it would be self-defeating. It would tend to "crowd out" other borrowers with legitimate, desirable needs. It would largely duplicate programs of FNMA, GNMA and existing FHLBB advances. It would be difficult, perhaps impossible to administer equitably.



We continue to believe that to improve the overall availability of mortgage credit, and to provide greater stability to that credit, commercial banks, savings and loan associations and other lenders should be given a tax credit incentive to enlarge their mortgage lending. You will recall that the mortgage interest tax credit (MITC), included in the FIA would be a graduated scale, ranging from 1.5% to 3.83%, depending upon the proportion of assets invested in residential mortgages. The MITC would be a permanent incentive for greater mortgage lending. It would tend to provide a maximum tax credit during periods of tight money, and in that way act as an automatic stabilizer for the flow of mortgage credit.

I am sure it is clear that we believe the FIA to be extremely important legislation which provides a clear statement of national policy on basic, substantive financial reform. It is a plan designed to build a financial institutional system which will be better able to serve us all. It is time for its enactment.

Mr. Chairman, we will provide you as promptly as possible with written comments regarding other provisions of the FRA in the general area of institutional reform.

Now I would like to turn to the question of regulatory agency reorganization.

Our financial institutions, and particularly our commercial banking system, are emerging from the nation's deepest recession in the post-World War II period with a demonstrated ability to withstand substantial economic adversity. Comments about problem loans, insider loans, disclosure of confidential examination reports, and other matters may have diverted our attention from this fundamental point. Regulators, along with the bankers they regulate, can share credit for this powerful evidence of the strength of our financial institutions.

It can hardly surprise us that problem loans have surfaced. What is more important and exceedingly reassuring is that the industry has faced unanticipated problems but has been able to increase its capital base and show remarkable earnings vitality even when earnings have been affected by deductions for unusually large loan loss provisions. Let us recall, too, that the regulatory role has traditionally been to protect depositors and maintain public confidence in the banking system as a whole. By this measure the record is good. Over the years, losses to depositors have been nominal and in the case of recent bank failures such losses have been non-existent. Public confidence in the banking system remains strong.

My point is simply that the walls are not tumbling down. It is not necessary to rush hastily into a reorganization of the regulatory system. There is time to approach the issue thoughtfully, deliberately, carefully and dispassionately.

We believe the present regulatory arrangements have generally worked well and that they should be largely preserved. We would, however, like to see the agencies strengthened by prompt enactment of the additional enforcement powers they have requested from the Congress. These would permit more expeditious handling of problem bank and bank holding company situations, permit acquisition of a problem bank by an out-of-state bank holding company, strengthen penalties for violation of cease and desist orders, permit easier removal of officers and directors of banking institutions, place limits on loan to insider, and permit divestiture of a bank holding company subsidiary. We endorse these proposals wholeheartedly.

Strengthened enforcement powers, along with continued improvement and refinement of the techniques of bank examination and regulatory supervision, including the use of computers and financial models, offer the greatest return in terms of modern, dynamic and effective supervisory practices. We believe that each of the three supervisory agencies with jurisdiction over commercial banks have made major strides in recent years in improving their methods and practices. The on-going changes in the Comptroller's Office have, perhaps, been the most dramatic, but each of the agencies can present a comparable list of improvements. As against a "competition in laxity," there is today a competition in regulatory excellence. It would be unfortunate if the energies of the supervisory agencies were diverted to organizational matters at the expense of their primary work at a time of major institutional change.

By contrast, there is no evidence that a single regulatory agency will insure either greater efficiency or better supervision. There is virtue in diversity. We think that consolidation might well restrict the ability of the banking industry to undertake healthy and constructive innovation in the provision of consumer services. Moreover, the uncertainty created by regulatory reorganization might well impair the willingness of banking institutions to engage in innovation.

We believe it would be wrong to separate the responsibility for the exercise of monetary policy by the Nation's central bank from a responsibility for regulation and examination. There is an inextricable link between monetary policy and bank supervision. The banking system

is the primary vehicle through which the Federal Reserve implements monetary policy. A continuing, day-to-day contact with banks throughout the country through the regulatory process gives the Federal Reserve both an appreciation of and an ability to influence banking developments. Thus, for example, the level and mix of loan commitments and the adequacy of contingency planning are matters that are within the purview of bank regulators, but have a critical impact on the ability of the Federal Reserve to execute monetary policy. A build-up in loan commitments may be an important consideration in determining what actions are needed to control monetary and credit expansion. The adequacy of contingency planning by banks, the measures they would take to meet unforeseen adversities, also is of critical interest to the Federal Reserve, since a lack of such planning may weaken the System's ability to fulfill monetary policy goals.

We cannot stress too strongly the need for the Federal Reserve to have at its elbow every tool that offers to prospect of assisting in the determination of monetary policy; for wisdom in that policy is essential for our fight against inflation, and to our domestic and international economic well-being.

Based on the GAO study, with which you are familiar, there is also some question as to whether there would be any significant cost savings from consolidation. The analysis suggests that there is little or no overlap in a majority of regulatory operations. Even where there is some duplication, however, it could not be known for a considerable time if any savings could be achieved.

The Financial Reform Act would concentrate regulatory and supervisory control of over eighty percent of the banking assets in a single agency. Such concentration might inadvertently weaken or impair the dual banking system.

In our judgment, Mr. Chairman, now is not the time to reorganize or consolidate our regulatory agencies.

There are serious questions which need careful study and deliberation in an atmosphere free of the heat and emotion of the moment. We need to deal with fundamental problems. What is the role of the regulator? Is it only to protect depositors and the public against the consequences of an institutional failure? Is it to serve as a kind of super-management? Should it be to shape and guide the evolution of the industry? When basic powers have been equalized, should we have separate regulators for banks and savings and loans association and for credit unions? What is the future of the dual banking system? Can we avoid the rigidity which seems to be the inevitable result of the

creation of a single regulatory agency? Can we afford to give up the laboratory for experiment which is provided by the present organization of the supervisory agencies? What is the most appropriate relationship between the conduct of monetary policy and the administration of bank examinations and supervision?

None of these are easy questions. Mr. Chairman, we stand ready to participate with you in a careful study of these and other issues which could provide a basis for the further development of our regulatory system.

In the meantime there is much that can and should be done. The proposals to strengthen the enforcement powers of the agencies should be enacted. The regulators must continue and intensify the improvements in supervision and examination which are already underway.

Most importantly, this Committee and this Congress have a great opportunity to make a permanent contribution to the health of our financial institutions so that they may better serve the consumer. We look forward to working with you to accomplish these objectives in the immediate future.

It has been a pleasure to appear before you this morning. I would be pleased to respond to any questions that you might have.



# AHEAD: A LONG SPELL OF GOOD TIMES

## Business Forecasters Tell Why

**Worries are fading, optimism is spreading. Signs are plentiful that the recovery, now a year old, still has plenty of steam left.**

American economists are now almost entirely in agreement on two conclusions about the business outlook that make pleasant reading:

1. The U.S. is going to make a bit more progress on the way back to full prosperity this year than most economists expected and—

2. There's a very good chance that this upward trend will continue for quite a few months, perhaps even years to come.

In short, the worries that hung over the forecasters several months ago are lifting. Scarcely any now fear that this recovery will "abort" in 1976 and turn into another recession. And fewer all the time are inclined to predict a downturn in 1977.

A fairly common view of longer-term prospects is that voiced by Robert P. Mayo, president of the Federal Reserve Bank of Chicago, who says: "I don't believe there is anything fundamental in the structure of the economy which precludes good performance over the next several years."

Ironically, one of the reasons for that optimism is the fact that the experts, by and large, have also concluded that, while business is expanding somewhat faster than they thought it would, a boom is not in the making.

If one did develop—most analysts agree—the resulting inflation, the rush to stock up in advance of price increases, and the shortages of men and materials that process would create, would set the stage for a corrective slump next year or the year after.

**Sparkling outlook.** The record of recovery so far is reassuring. As the chart shows, most measures of economic activity have posted substantial, but not unprecedented, gains since the recession touched bottom about a year ago.

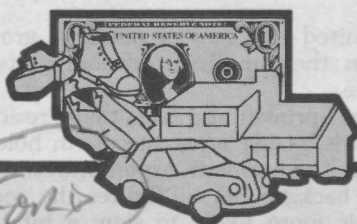
Total output of goods and services—the gross national product—has retraced about 90 per cent of the ground lost during the sharp drop from late 1973 to the spring of 1975.

More people are now at work than ever before. Incomes are rising faster

than prices. Consumers have more purchasing power; they also have a near-record and growing pile of savings.

So, whether they want to pay cash or borrow, they are in a good position to spend more freely and are doing so.

As a result, retail sales have only about a fourth of the way to return to peak levels. Sales of new American-made autos in March were nearly 48 per cent ahead of the same month a year ago.



### AFTER A YEAR OF RECOVERY—

*What has happened to key indicators since the slump hit bottom in the spring of 1975:*

#### **Factory output: Up 8%.**

Biggest improvement is in consumer-goods production.

#### **Home building: Up 63%.**

Housing starts are at highest level in two years.

#### **Personal incomes: Up 10.4%.**

Gains are at faster rate than in earlier postwar recoveries.

#### **New-car sales: Up 47.7%.**

Sales are at highest level since summer of 1974—and rising.

#### **Employment: Up 3.1%.**

As jobs open up, unemployment rate has fallen to 7.5 per cent, from recession peak of 8.9 per cent.

#### **Consumer prices: Up 6.4%.**

Price index is rising more slowly now than a year ago.

#### **Retail sales: Up 11.6%.**

After allowance for inflation, physical volume in stores was still up 6.2 per cent.

#### **Total output: Up 6.5 to 7%.**

Gain in real gross national product is about in line with average of recent recoveries.

Also: Company balance sheets generally have improved. Business has less money tied up in surplus inventories, and most corporations are less burdened with short-term debts that have to be paid off or refinanced within a year's time.

A. Gilbert Heebner, executive vice president and economist of the Philadelphia National Bank, now expects the increase in gross national product, after allowing for expected inflation, to be about half a percentage point greater than he forecast last December. "The evidence has been too good to ignore," Mr. Heebner explains.

**Strong "economic pulse."** Along the same lines, Irwin L. Kellner, vice president and head of the economics department at the Manufacturers Hanover Trust Company in New York City, declares: "The economic pulse is beating stronger. Real growth now seems likely to reach 7 per cent this year." That compares with an official Government forecast of 6.5 per cent increase in the GNP in "real" or noninflationary terms this year.

In Cambridge, Mass., Harvard University Prof. Otto Eckstein, who heads Data Resources, Inc., says his company's estimate of 1976 economic growth, figured at 6.2 per cent back in December, is likely to be raised slightly sometime this spring.

The change, Mr. Eckstein emphasizes, will not be a dramatic one.

He, like most economists, is convinced that the speedier recovery of recent months does not foreshadow a boom.

Why not? For one thing, business investment in new plants and equipment is expected to show very little, if any, increase in 1976, in "real" terms. Next year will be a "tremendous year for investment," Mr. Eckstein says, but not this year.

He also figures that two industries that have contributed heavily to the progress of the recovery to date—autos and home building—are not likely to show sharp increases in the future.

Auto sales already have increased on an annual basis from 7.6 million a year ago to more than 10 million this past March, and the producers do not look for much more improvement in the months ahead.

Construction of single-family houses has already reached a fairly high level by historic standards, more than 1.3 mil-

THE WHITE HOUSE

WASHINGTON

INFORMATION

May 28, 1976

MEMORANDUM TO: JIM CANNON  
FROM: GEORGE W. HUMPHREYS  
SUBJECT: Jack Marsh's memo to you about the  
Mahoning Valley Project

Attached is a memo from Coleman Andrews to Bill Gorog summarizing the proposal referred to by Senator Taft in his call to Jack Marsh.

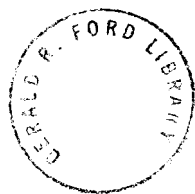
In essence, a consortium of private and public people in the Mahoning Valley are seeking Economic Development Administration funds (Commerce) in order to help the steel and transportation industry in that area. It appears that EDA will approve the project and the question at hand is whether the approval process should be speeded up in time for the President to identify himself with the project prior to June 8.

Bill Gorog has the issue in hand and is working with senior staff as to the best route to take.

Attachments



*Handwritten notes:*  
Economy  
5/31/76  
George -  
OK,  
PLs  
Keep  
top  
To  
this  
from



THE WHITE HOUSE

WASHINGTON

May 18, 1976

MEMORANDUM FOR WILLIAM F. GOROG

FROM: T. COLEMAN ANDREWS, III *TCA*

SUBJECT: Proposed EDA Grant for the Mahoning River Valley Area in Ohio

This memorandum provides a summary of the EDA grant proposal offered by Agency the Western Reserve Economic Development (WREDA), which serves as a lead agency for economic development activities in the Youngstown-Warren area. The recommendation contained herein is based upon review of the project in a meeting on Tuesday, May 11 with William A. Sullivan, Jr., President of WREDA, and Gary Knight of the U.S. Chamber of Commerce, Environmental Division.

Background

In July of 1975, WREDA, representing a coalition of local government units, received a \$100,000 planning grant from EDA to prepare an Economic Adjustment Plan for the Mahoning River Valley area. That Plan identified the following economic needs:

- . To create the conditions necessary to retain the basic steel component of the regional economy.
- . To reduce the dependence of the local economy on basic steel by diversifying the economic base.
- . To identify problems and opportunities in the non-steel sector of the Mahoning Valley economy and structure a response thereto.
- . To minimize the impact of cyclical downturns and plant closings on individual and family needs, and on public services.
- . To coordinate economic adjustment activities to maximize their impact.



With respect to steel retention, the problems faced by the basic steel industry in the Mahoning Valley are three-fold:

- 1) The high cost of meeting environmental regulations;
- 2) The high cost of delivering raw materials to Mahoning Valley mills resulting from the lack of water access and inefficient transportation arrangements; and,
- 3) The inefficiency of existing blast furnaces due to size and age.

WREDA has submitted an economic adjustment plan to the Economic Development Administration of the Commerce Department which would require \$9 million of public funding over a three-year period. Among the major goals of this plan are the exploration of construction of jointly-owned blast furnace facilities, a two-year transportation project to demonstrate the capacity of unit train operations to facilitate raw material delivery, and development of a regional insurance fund to even out cyclical changes in public revenues.

The WREDA plan is currently under review by EDA. My conversation with Messrs, Knight and Sullivan indicated that the plan would probably be approved by mid-summer. The program is backed by I.W. Abel, the locals of the United Steelworkers (52,000 members in the area), and the EPA.

Recommendation:

That you consult with Secretary Richardson to determine the timing of the WREDA decision and if possible, to announce the decision during the President's Ohio trip tentatively scheduled for June 5-6.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

1. Humphreys memo to Cannon
2. Marsh memo to Cannon

THE WHITE HOUSE

WASHINGTON

REQUEST INFORMATION

May 27, 1976

MEMORANDUM FOR: JIM CANNON

FROM: GEORGE W. HUMPHREYS *out*  
SUBJECT: Mahoning Valley Proposal



Jack Marsh asked for your comments on Senator Taft's proposal concerning a White House coordination meeting of Federal Departments and labor and industry leaders. The "proposal" is vague, but the timing is specific.

The idea troubles me.

On March 29, EPA published effluent guidelines for iron and steel plants. All plants in the country were covered with the specific exemption in the Mahoning Valley of Ohio. This exemption has sparked tremendous controversy, and notices of intent to challenge the decision in the courts.

EPA cited the "unique combination of factors" that led to this first-of-its-kind exemption. Essentially, it was clear that application of 1977 standards would close the plants and result in 27,000 direct job losses.

This decision has carried little implication of "primary politics" nor Presidential interference in the process.

To open this up now could backfire.

This does not address the substance of the unit train nor an EDA program. I'm sure Judy Hope and Paul Leach will discuss this with you when they get back to the office.

I suggest that someone (Paul Leach?) discuss the details of the "furnace and train" project with the Mayor of Youngstown and Mr. Sullivan before we step too far into the White House meeting idea. That still may be a good thing.



DICTATED BUT NOT READ  
BY MR. MARSH

cc: Humphreys  
Hope  
Leach

THE WHITE HOUSE

WASHINGTON

May 27, 1976

MEMORANDUM FOR:

✓ JIM CANNON  
BILL SEIDMAN  
✓ DAVE GERGEN

FROM:

JACK MARSH *Jack*



Senator Taft called me this morning in reference to a program in Ohio which he wished to bring to our attention for possible White House participation. He suggested that this White House interest occur within the next week if a decision is made to try and implement.

This program involves the Mahoning Valley section which is a great steel production area where there is a substantial effort being made to revamp much of the steel industry production facilities.

They have been working with Russ Train at EPA and so far this seems to be going well with permits in hand to assist the steel companies. The major proposal envisions a joint company blast furnace as well as an unit train. The train proposal is one they are working on with DOT. As a part of their employee program they have a major project going with EDA.

Taft suggests that a White House meeting might be helpful to try and coordinate Federal departments and agencies who are considering this operation together with representatives of industry and labor. Taft suggests that I. W. Abel would probably be a participant in such a meeting.

Key leaders in the effort are the Mayor of Youngstown, Jack Hunter (who incidentally is a Republican candidate for Congress), and a person named Sullivan.

The purpose of this memo is to let you know of the Taft proposal and invite your comments on how this might be handled.

cc: Dick Cheney, Max Friedersdorf, Bill Gorog  
Jerry Jones, Ron Nessen

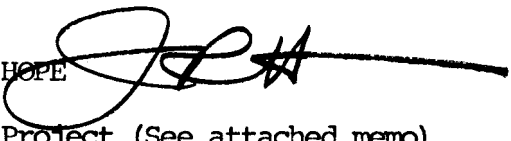


THE WHITE HOUSE

WASHINGTON

May 28, 1976

MEMORANDUM FOR: JIM CANNON

FROM: JUDITH RICHARDS HOPE 

SUBJECT: Mahoning Valley Project (See attached memo)

There is no DOT involvement.

Some of the steel producing facilities in the Mahoning Valley area have been having trouble transporting their commodity - steel. They then got a group together in the area and retained Klauder and Associates (a private contractor.)

One of the proposals to the steel facilities was to investigate unit trains. Steel facilities then went to EDA and applied for a grant to set up a unit train and EDA is handling.

There could be eventual ICC involvement if the grant is made, however, status as of now, is totally with EDA for the positive or negative grant.

DEFINITION OF UNIT TRAIN

A unit train is a train transporting a single commodity from one shipper to one destination; usually a special tariff applies, set by the ICC, depending on the commodity.

Grain, Coal and Ore are the usual commodities.

cc: Paul Leach  
George Humphreys

1  
DICTATED BUT NOT READ  
BY MR. MARSH

FYI cc: Humphreys 234  
~~Hope~~  
~~Schleede~~ Leach

THE WHITE HOUSE

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7/1 cc: Humphreys 231  
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WASHINGTON

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THE WHITE HOUSE  
WASHINGTON

GEORGE WOULD LIKE YOU TO  
CALL HIM ON THIS

6630



THE WHITE HOUSE

WASHINGTON

May 27, 1976

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 BILL SEIDMAN  
 ✓ DAVE GERGEN

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