ERLENBORN, Mr. CONTE, Mr. BELL, Mr. KEATING, Mr. MCKINNEY, Mr. MAZZOLI, Mr. BROWN of Ohio, Mr. FORSYTHE, Mr. CONOVER, Mr. BROWN of Michigan, Mr. REES, Mr. WARE, Mr. BUCHANAN, Mr. GUDE, Mr. RUPPE, Mr. PREYER of North Carolina, Mr. SIKES, Mr. CLEVELAND, and Mr. THONE):

H.R. 16750. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. THOMSON of Wisconsin:

H.R. 16751. A bill to amend title 23 of the United States Code to provide for the Federal funding of land and easement acquisitions and the construction and improvement of necessary roads and scenic viewing facilities in order to develop a national scenic and recreational highway program; to the Committee on Public Works.

By Mr. BROYHILL of North Carolina:

H.R. 16752. A bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON (for himself, Mr. UDALL, and Mr. COUGHLIN):

H.J. Res. 1305. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. REID presented a bill (H.R. 16753) for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh, which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, September 20, 1972*

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Father Gilbert V. Hartke, O.P., chairman, the speech and drama department, Catholic University of America, Washington, D.C., offered the following prayer:

Go home to your friends and tell them how much the Lord has done for you.—Mark 5: 19.

O Lord our God, we fail You through our sins. Lord, we easily make public confession of the sins of others. This we do because we are weak and need to place the root of our weakness in other than our self. Help us, Heavenly Father, to face our faults. Help us not to burden our brother by avoiding our responsibilities to You and to him, our neighbor. Lord, You came on earth and in 1,000 days taught my neighbor and me the centuries old lessons of contrition and compassion. Destroy, O Lord, we pray You, the ceaseless cycle of evil that holds us captive. Let sin die in us as the sin of the world died in Jesus Your Son. Through death to sin and no further shifting of responsibilities for our failings, may we be brother to each other and sons of God. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 19, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to consider executive business.

AMBASSADORS

The PRESIDENT pro tempore. The clerk will state the nominations on the Executive Calendar.

The assistant legislative clerk read the nominations of Marion H. Smoak, of South Carolina, to the Acting Chief of Protocol for the White House, with the rank of Ambassador, and Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

RESCISSION OF ORDERS RECOGNIZING SENATOR HANSEN AND SENATOR EAGLETON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special order granted to the distinguished Senator from Wyoming (Mr. HANSEN) for this morning be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also make the same request for the Senator from Missouri (Mr. EAGLETON).

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized for not to exceed 15 minutes.

UNITED STATES-SOVIET GRAIN AGREEMENT

Mr. BENTSEN. Mr. President, I will discuss this morning the agreement the United States and the Soviet Union reached this past July 8 under which the Soviet Union was to purchase $750 million of assorted grains from the United States over a 3-year period.

During this discussion, I ask unanimous consent that my assistants, Mr. Gary Bushell and Mr. David Allen, be allowed the privilege of the floor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Initially, everyone greeted the news of this agreement with a great deal of enthusiasm, and I shared that enthusiasm with them, because we know this should benefit all of our people. Our farmers benefit because of the increased markets for their products. Our workers benefit through the increased number of jobs that result. Our consumers benefit because of the improvement in the state of our economy.

But, Mr. President, the thing that concerns me in this is the obvious disregard for the farmer and the way it has been handled in the Department of Agriculture. Some of the details I think threaten future trade. I want the details of this trade made public, and I want to know who has shown the lack of concern for the farmer in that Department.

Mr. President, the Soviet Union and a handful of huge international grain traders reaped great benefits from the United States-Russian grain deal. The U.S. farmer will, indeed, benefit in the long run with increased trade, but the trade conditions must be open and equitable and for the benefit of the producer as well as the large international grain trader.

In this deal the Soviet Union, at a time when her wheat crop was severely damaged by weather conditions, has handled Uncle Sam like the fairway barkers handled the city slicker who went to the country fair. Not only has Russia been able to obtain sorely needed wheat from this country, and in copious quantities, but she has been able to get it at bargain basement rates—rates that would have been made some of our old Yankee traders blush in embarrassment.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

We have reportedly sold the Soviet Union an estimated 400 million bushels of wheat. While these large Soviet purchases forced an increase of 30 cents per bushel in the price of wheat to domestic consumers between July 8 and August 7, the Department of Agriculture held the Soviet Union's price steady by increasing the export subsidy paid on their wheat from 5 cents a bushel to 31 cents a bushel. Before it was all over, every bushel of wheat the Soviet Union purchased was costing the American taxpayer 47 cents in export subsidy.

Most experts place the cost to the American taxpayers in excess of $100 million. Since the Department of Agriculture considers the prices at which traders sell to the Soviet Union privileged business information, it is impossible to determine if the Russians or the grain traders, or in what proportion, received the benefit of the taxpayers' $100 million.

Why did the Department of Agriculture allow the export subsidies to get so high in an effort to maintain the world price at the low level at which the Soviet Union apparently was buying? The United States was the only major seller in the world at the time. The Canadians have told us that their exports were heavily committed until 1973. So we were the only big seller available in the market at that time.

On September 1, when the export subsidy was reduced from 47 cents to 30 cents, and the U.S. export price jumped up from $1.65 to $1.87, business was still good. In fact, some of our regular customers and allies are having to pay those higher prices. Because of the state of the world market, this years' wheat could possibly have been sold at domestic prices without any subsidy.

However, the aspect of this agreement causing the greatest controversy is the possibility of inside dealing.

In April, an Assistant Secretary of Agriculture was in Russia negotiating this agreement while also applying for a top-level management position with Continental Grain Co.

On the ninth he met with Soviet officials again in Washington, at which time the Soviets expressed interest in the credit terms they had earlier rejected in Moscow. Three days later he gave notice of his intention to leave the Department of Agriculture. On June 7 he officially resigned, and the following day he joined Continental Grain Co. as a vice president. That company ultimately made approximately one-half of the total wheat sales under the trade agreement which was announced; and that was announced publicly only 30 days after his departure from the Department of Agriculture.

It was revealed yesterday that the company he joined signed a contract of approximately $230 million with the Soviet Union for the sale of 150 million bushels of wheat 3 days before the public announcement of the United States-Soviet grain agreement.

Now, that is a remarkable set of coincidences, and it does not build confidence in the integrity of the Government.

Whether the Assistant Secretary's actions amount to a violation of Federal conflict-of-interest statutes is yet to be decided. Whether he gave his new employer valuable inside information concerning the Soviet need for wheat is a question which may never be answered. What is certain is that this type of apparent conflict will undermine public confidence in future East-West agreements.

Mr. President, inside information on trade policies is an advantage in any industry but it is particularly valuable in agricultural trade. Advance knowledge of a major sale such as this one would allow a company to purchase wheat during July and early August at low prices, store it, and postpone booking for export subsidies until late August when the subsidy rate had been pushed up by domestic price increases. The company could also buy wheat for future delivery in the commodity markets at low prices prior to the announcement of the sale and obtain delivery after the sale had pushed up the price.

Mr. President, when the export subsidies being paid to grain dealers finally became untenable, phone calls were made to the principal exporters on August 24 to warn them of a possible change in export payment policy, and a meeting was called for August 25 in Washington. Perhaps all this is normal at the Department of Agriculture; but what, Mr. President, is wrong with a public announcement which allows the whole Nation to know about a change in policy at the same time grain dealers do?

Mr. President, what about the farmers? It seems outrageous to me that the Agriculture Department, which has been so solicitous of the needs of the grain traders, has not been more helpful to the farmers in the affair.

After all, the Agriculture Department is supposed to represent the farmer in our Government, just as the Commerce Department represents the businessman, and the Labor Department the working man. The Agriculture Department is intended to be the farmer's advocate in our Nation's Capital.

While expanded trade for agriculture products is in the interest of all our farmers, and I support such expansion, this particular sale has had an inequitable effect in some areas. Due to the calculation of the value of wheat certificates on a 5-month average beginning on July 1 and going to November 30, farmers in early-harvest areas who sold without knowledge of the pending sale will actually make less money this year than if the Soviet sale had never been made. Farmers in the early-harvest States such as Texas sold at prices below what is now expected to be the 5-month average, and will receive approximately 30 cents less than the parity price they would have received absent the Soviet wheat purchases. It has been estimated that such losses to farmers will amount to almost $69 million.

In testimony before the House Subcommittee on Livestock and Grain the Secretary of Agriculture has expressed sympathy but has not made a commitment to provide equity for the farmer although his department moved very quickly to provide subsidies for the exporter.

The legislation which the Senator from Minnesota and I introduced last week would reimburse these farmers for this loss as a matter of simple equity. That legislation will be considered by the Senate Agriculture Committee this morning and I urge its speedy approval.

Once again, Mr. President, I wish to express my complete support of expanded trade for agricultural goods as well as other products—with the Soviet Union as well as other nations. But to build this expansion and public support for it, we must get a good price for our products, avoid apparent conflicts of interest, and insure the benefits are shared by all our citizens—farmers, taxpayers and traders.

Mr. President, I urge the early consideration and passage of this legislation.

The PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota (Mr. HUMPHREY) is now recognized for not to exceed 15 minutes.

Mr. HUMPHREY. Mr. President, first of all I wish to commend my distinguished colleague from Texas (Mr. BENTSEN) upon his review of the current situation as it relates to the price and marketing of wheat, the relationships between the export program to the Soviet Union and the prevailing domestic price, and the impact of this entire operation of export sales upon the income of American farmers.

I do not use this occasion, Mr. President, to belabor the subject of the Soviet grain deal. Let me say that I, like the Senator from Texas, am very pleased whenever we can expand our exports. We need to do that. And, indeed, in years past, I joined with the distinguished Senator from Vermont (Mr. AIKEN) in encouraging what we call export subsidies, so that the American farmers and our exporters could engage competitively in world trade. The purposes of those export subsidies is to provide a freer flow and a greater flow of American agricultural products into world markets, without depressing the American domestic price.

The only question at issue here is the matter of timely information to the American farmer as compared to what kind of treatment the exporter receives related to that of the farmer. I do not draw conclusions at this time until the investigation of this whole subject matter has been concluded. There are certain areas, however, that require very careful attention.

For example, did exporters receive any tipoff of advance information that permitted them to step into the American domestic market to buy up grain supplies at low prices and hold them for later exports? Were there any relationships that violated standards of ethical conduct between departmental officials, present and former, and American exporters?

I do not have the answers to all of these questions, Mr. President, and I am not going to level any accusations.

I shall await the result of the investigation being conducted by the other body. I understand this morning that the Federal Bureau of Investigation is looking into the whole matter, as is the Com-

modity Exchange Authority. They are looking into matter as it relates to whether or not there was any violation of the law involving to what we call grain futures.

But I direct my attention primarily to the well-being of the farmer. The farmer did not receive any information about a projected Soviet grain deal or sale. The marketing services of the Department of Agriculture were very alert in their concern for the exporter, for the grain trade, but seemed to be very unconcerned about the interests of the individual farmer. Many of those farmers, hard-pressed as they are for cash, sold their grain at low prices in the early summer, despite the fact that had they received information as to the possibilities of this substantial export sale, they could have and would have held on for a better price in the marketplace.

Mr. President, Senator BENTSEN and I have introduced Senate Joint Resolution 267. I shall go to the Committee on Agriculture this morning, in the hope that we might be able to pass this measure.

The measure provides that the Secretary of Agriculture shall issue such regulations as necessary to carry out the provisions of this joint resolution on a fair and equitable basis. Such fair and equitable administration of this program of deficiency payments should not present any serious problems to the administration. The Commodity Credit Corporation now has an accepted scale of differentials by county and quality of wheat which it uses in administering its price support loan program. These differentials could be applied to producers' sales to determine the amount of the deficiency payment to which they were entitled.

Let me review briefly again what has happened.

The parity price of wheat in July 1972 was $3.03 per bushel. The U.S. average farm price at that time was $1.33 per bushel.

Let me digress for a moment to point out that the farmer was receiving less than half of what he ought to receive for his wheat. Under the U.S. average farm price, the value of 1972 wheat marketing certificates, under the Agricultural Act of 1970, is equal to the difference between the average market price in the first 5 months of the marketing year, July 1 to November 30, 1972, and the parity price in July.

With no new developments in the market, it is probable that the 5-month average market prices would have approximated $1.33, resulting in the certificates having a value of $1.70 per bushel.

As the extent of the Soviet purchases became known, market prices rose sharply. No. 1 ordinary red winter wheat at Kansas City increased in price from $1.52 a bushel the first days of July to $1.62 the first 2 days of August, to $1.95 the first 2 days in September, to $2.27, yesterday, September 19. This is an increase of 75 cents a bushel for first quality wheat at the Kansas City market.

It now appears probable that wheat prices will average 30 cents a bushel higher and wheat marketing certificate values will be 30 cents a bushel less than they would have been in the absence of the extraordinary export sales to the Soviet Union and other countries.

Wheat producers who sold their wheat before the sharp rise in prices occurred in late August and September not only failed to receive higher prices which are now expected to prevail for the balance of the season, but will receive marketing certificates valued at some 30 cents a bushel less than otherwise.

On the basis of previous marketings it is probable that about one-third of the 1972 wheat was sold by mid-August. Since southern wheat producers who sold early are probably about average in size it is probable that about a third of the wheat producers will be adversely affected by the wheat sales to the Soviet Union unless deficiency payments, similar to those authorized in Senate Joint Resolution 267 are made.

The domestic wheat marketing allotment is approximately 500 million bushels. If the value of these certificates is reduced 30 cents a bushel as a result of higher market prices Government expenditures would be reduced $150 million.

If the producers of one-third of this 500 million bushel domestic marketing quota qualified for deficiency payments, because of early sales at low prices, the deficiency payments would total $50 million, one-third of the anticipated savings to the Government.

Mr. President, the only reason we introduce this measure is that the Department of Agriculture did not level with the farmers—they did not indicate to them major sales were in the offing. I cannot say how much the Department knew as to the volume of those sales, but I do know, from the testimony that has already been received by the other body, that exporters in the grain trade did know that there would be some Soviet purchases and, indeed, information was given to these exporters relating to grain subsidies and to the possibilities of Soviet purchases. It was common talk in the marketplace among the exporters. The farmer did not receive that information.

The Department of Agriculture was very sensitive to the needs of the exporters. I am not accusing anyone of any hanky-panky. I am not saying there was any corruption. I do not know. That has yet to be determined. But I am saying that the Department of Agriculture was very alert to the needs and opportunities for the export trade, but apparently was very mute and silent when it came to informing the American farmer.

Approximately one-fourth to one-third of the farmers sold their grain at low prices prior to any announcements about the Russian sale. This meant that they were not able to really benefit from the sales, losing part of their certificate reimbursement, which will result in more than $50 million in lost income.

This does not apply particularly to the farmers in the area I represent in the Senate, because we market later in the year. Our harvesting of wheat in the Northern States comes in early August, and much of that wheat does not go to market until later. But in the South-Central States and the Southwestern States, it is of critical importance. Also, we know that the total supply of wheat affects the entire market price.

So, Mr. President, I rise today to encourage prompt action on the resolution that Senator BENTSEN and I have introduced, as I will press for in the Senate Committee on Agriculture later this morning.

Finally, let me just say a word about the Soviet purchases of wheat and the possibilities of other feed grain sales to Russia. I think there is legitimate reason to be critical of the administration in connection with its handling of the present shipping arrangements with the Soviet Union. I ask the Senate to remember that the arrangement as originally proposed provides for one-third of the cargo to be carried in U.S. bottoms, one-third in third country bottoms, and one-third in Soviet ships.

The failure to reach a timely agreement has resulted in two things: First, Soviet ships are not coming down into the ports of the Great Lakes, particularly the port of Duluth. As nearly as I can remember, the reason for this is that our Departments of State and Commerce not only have discouraged it but also have placed certain restrictions on their doing so. Our Government claims that the reason for their doing this is in order to bring about the best possible agreement from our point of view.

Second, the U.S. bottoms are not transporting the amount they would be entitled to transport if the agreement were in effect. If the Soviets were indeed permitted to enter the Great Lakes, it would mean increased business for those ports.

From an overall standpoint, the key issue is failure to arrive at an agreement in denying business to United States carriers where the agreement would insure that they would get one-third of the business and the other two-thirds of the business most likely would be with Soviet and third-country flags using Great Lakes ports and thus a failure to arrive at an agreement which would benefit not only the ports of the Great Lakes, but the entire United States shipping industry.

There is every reason, therefore, to be critical of the administration for its failure to reach such an agreement. It has had more than adequate time to do so. If something is not done almost within a matter of days, we in the Great Lakes will find ourselves in what we would call the winter season and the ports will be closed and we will have lost any opportunity to ship these very important agricultural commodities.

Thus, I ask the administration to act. I ask the administration to do it now before we lose the possibility of shipping on American ships and before we lose the possibility of utilizing the Great Lakes ports.

Mr. President, this administration has been derelict in its agricultural policy. This administration has permitted the American farmer to have an average parity ratio of only 74, a level which President Nixon said during his 1968

presidential election campaign as being far too low.

This administration up until the past 2 months has been having a farm parity price between 69 and 70. It has literally liquidated thousands of farmers and put American agriculture deep into debt. It has driven thousands of farmers off the land.

I recall a statement by the now President of the United States as he campaigned in Des Moines, Iowa, in September 1968, when he said:

It is high time we had a Secretary of Agriculture who will not spend time in telling off the farmers of America but instead will talk for them.

Well, Mr. President, this Secretary of Agriculture played a leading role in killing the grain reserve bill. This Secretary of Agriculture has not as yet put himself on record with reference to the bill introduced by the Senator from Texas (Mr. BENTSEN) and myself, but I would not be surprised if he opposes it. This Secretary of Agriculture has refused to support what we call supply management legislation that would give the farmers a better price. This Secretary of Agriculture has spent a good deal of his time pitting labor against farmer. This Secretary of Agriculture has not spoken up for the American farmer—that family farmer who is the backbone of the American agricultural system.

So, Mr. President, I would summarize my case this morning by saying, No. 1, that we had better look to the future to see whether we will have adequate supplies from our agriculture. We cannot ask the farmer to plant more if he will not get a guarantee on his prices. The farmer has been up that road before. Even previous administrations said they were sympathetic to the farmer and asked him to plant when they thought there would be a shortage. The farmer responded, but only to receive low prices. Therefore, if we are going to ask the farmer to plant, he must be able to set aside grain reserves that do not adversely affect the market price.

I encourage export trade, but I say to this administration that when they do it, I hope that they make information relating to it totally public. Let there be nothing that will cloud the issue. Let there be no opportunity for people to say that something was done, so to speak, behind closed doors, or that some particular part of the agricultural community received special favor.

I hope and pray that we may find a way to give the American farmer proper assurance that he will receive parity prices for his commodities. He has suffered long enough. He is entitled to justice in the marketplace.

Mr. President, I ask unanimous consent to have printed in the RECORD a news story carrying a statement by Mr. Tony Dechant, president of the Farmers Union. Mr. Dechant's statement underscores the legitimate concern of our family farms.

I also ask unanimous consent to have printed in the RECORD the statement of my distinguished colleague, Senator MONDALE. Senator MONDALE emphasizes the importance of supply management and the result of the Nixon agricultural policies on our farm producers.

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

[From Minnesota Agriculture, Sept. 7, 1972]

SECRECY IN WHEAT DEAL HURT WHEAT FARMERS—DECHANT

WASHINGTON, D.C., August 30.—The Russian wheat deal has cost wheat farmers in early-harvest areas an estimated $100 million in government wheat certificate payments, according to Tony Dechant, the national president of the Farmers Union.

This will occur, Dechant said, because the rising wheat market could raise the average price to $1.75 per bushel, or higher, during the July to November marketing period. This will have the effect of reducing the federal subsidy by approximately 40 cents a bushel.

Dechant explained that farmers received the difference between the average price during the five-month marketing period and 100 per cent of parity, now estimated at $3.03 per bushel, on that portion of their wheat used in domestic markets. This is slightly less than half the total wheat harvested.

"But those farmers who sold their wheat in July received only $1.30 to $1.35 per bushel," Dechant said. "Their wheat certificate will amount to only $1.28 per bushel, if the average for the five-month period is $1.75—making their total return about 40 cents a bushel less than the full parity price to which they are entitled under law."

Dechant charged that the situation is the result of the secrecy surrounding the Russian wheat deal. "Full details should have been announced in advance so that farmers could have made better judgments at the time of harvest," he said.

Dechant estimated that farmers may have sold between 400 and 500 million bushels of wheat in July in such early-harvest areas as Texas, Oklahoma, Kansas and parts of Nebraska and South Dakota. "They were entitled to 100 per cent of parity on about half of this wheat," he said. "Instead, they will receive less than 90 per cent of parity."

MONDALE CONCERNED ABOUT LONG TERM INCOME BENEFITS FOR FARMERS IN SALES

The sale of nearly $1 billion worth of grain to the Soviet Union illustrates dramatically the potential for peaceful nonstrategic East-West trade. This trade could play a role in the expanding U.S. exports, according to Senator Walter F. Mondale.

"Export expansion of this type is especially important if we are to develop better farm income from our expanding agricultural productivity. Increased Russian purchases of feed grains for their growing livestock industry show promise of further trade opportunities," he said.

"I am concerned, however, that there is little promise of long-term income benefits for farmers from the sales. The present government farm program has resulted in farm prices often dropping to disaster levels. This, in turn, has exerted downward pressure on world prices as excess production is dumped into export markets."

The Administration consistently states that grain prices have to stay low in order to compete in world markets. But big trade volume without profits to the farmer accomplishes nothing. Further, these break-even prices exert downward pressure on world prices. This is the predicament which results when farmers have no voice in international farm trade decisions, he explained.

"As a result of vast overproduction, wheat prices have been at disaster levels for several years. Now, a crop failure in Russia has turned into a unique opportunity to reduce U.S. stocks of wheat. The result has been a sudden increase in wheat prices. But unless longer term market opportunities are developed, this price increase will be short term. The favorable prices this year will not carry farmers through several years of disaster level prices," he declared.

"In my judgment, a better government farm program is needed to more adequately stabilize farm production and balance supply with demand. Then, new export market opportunities open up, specific supply expansion measures can be taken. The current set-aside program allows too much slippage and uncertainty in production of major commodities. Besides all the natural risks in farming due to weather, disease, and insects, the government program does an inadequate job of supply management. In planning production and marketing, farmers have to rely heavily on the government crop reports or solely on chance. They have no specific idea at planting time how much of each commodity will be planted across the nation."

"A more adequate supply management program, a strategic grain reserve and increased price support loan rates could eliminate many of these uncertainties and increase farm income."

VITIATING ORDER FOR SENATOR COOK TO SPEAK THIS MORNING

Mr. SCOTT. Mr. President, I ask unanimous consent that the order granted to the distinguished Senator from Kentucky (Mr. COOK) yesterday to speak for 15 minutes this morning be vacated.

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

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Pennsylvania (Mr. SCOTT) for 15 minutes.

Mr. SCOTT. Mr. President, some people cannot stand prosperity. One would have thought if there was anything the farmer wanted more than anything else, it was to be able to sell his wheat, sell it at higher prices, and to get more contracts with other nations.

That is exactly what has been happening. The largest contract in history has just been negotiated with Russia. Another large contract is being negotiated with mainland China.

I heard one commentator mention at the time that it was being negotiated with France—which is a cute way of getting away from saying it was American wheat. There have been no negotiations with France on this, but who expects candor in these political days anyway?

What can we expect from an opposition suddenly confronted by the fact that the farmer is getting better prices for his product? We would expect them to do exactly what they are doing, that is, getting up and saying, "This is great. We love the farmer. We think this is fine, but it must be that someone else is getting more money than the farmer."

I have lived as a small boy on a farm, and I know that farmers generally are accustomed to blaming the middleman. I never saw a happy farmer, because always he was grumbling that the big corporations or the middleman or someone else was getting more money than he was.

Now, if we take a demagog who wants,

really, to flap his wings and ride the currents on this one, all he has to do is tell the farmer, "Sure, you make a profit. Wheat is going up, but someone else is making more money than you are."

That does not have to be proved, because this is an election year. This is the year of nonproof. This is the year of agitation. This is the year in which we kind of goose the farmer into cries of outrage all the way to the bank.

Mr. President, I am not talking about anything that has been said here. I am talking primarily about the almost instant reaction of the forces of the opposition to this administration when they were, I suppose, caught short on the grain deal. They were caught as short as some of the big grain dealers were. As a matter of fact, it will appear in due time that the principal grain dealers did not make money on the original transaction but that they lost money. I am waiting—we are all waiting—for the evidence of that, but certainly some of the grain dealers were actually short of grain and others were short on the stocks of the subsidy transaction.

There has been no evidence adduced, and I know of none, to indicate that there was any gambling, or inside information, in the market.

Moreover, it is well known that the information which the distinguished Senator from Texas referred to as of August 24 when wheat phone calls were made to principal exporters regarding export payment policy, that this policy had been made effective the previous day, August 23, in order to avoid giving any improper advantage to anyone.

The truth is that the Soviet Government has a right to come over here and make private deals for wheat or feed grains. That is our free enterprise system. The only people who object to that are those who have left the United States and gone up and joined the Canadian Wheat Board and who would rather see us do it the Canadian way.

Well, if we did it the Canadian way, we would not make any money for the farmer at all. The people who started to criticize, the people furnishing the information to enable some people to allege that grain exporters got some unwarranted advantage, were themselves people associated with the Canadian Wheat Board, one of whom had formerly been associated with the U.S. Department of Agriculture.

What did he want? He wanted to make trouble because he wanted the United States eventually to come to the Canadian Wheat Board.

What would happen then? The farmer would not get a cent of profit, because as you came out of the transaction, the only ones who would benefit would be the U.S. Government because the supply would come from the Government surplus.

Now, what happens under our system? The Commodity Credit Corporation has quite a lot of wheat. These sales to Russia are going to deplete its stock. And when that stock is depleted, the CCC has to refill its grain storage facilities with more wheat. Where does it get it? It gets it from next year's early harvest farmer.

So, here is the complaint: If anyone sells the day before a transaction was announced, he is disadvantaged.

Mr. President, that is true every day in the stock market. Anyone who sells before a price rise is worse off than the person who sells after the price rise. The only question is whether it is in the fair and normal course of trade. And that is a proper question. However, to imply that whole areas of the country have been disadvantaged is utterly false, because these early harvest farmers will benefit next year from a continued firmness in the price of wheat necessitated by the resupply of the Commodity Credit Corporation of the quantity of wheat necessary to restore its levels which have been substantially depleted by reason of this grain deal.

That is what it is all about, Mr. President.

Another charge was made, and I may say that I surprise myself by being an expert on this subject, because I am really not. However, it does not take an expert to label hogwash. I am not an expert in grain. However, I am an expert on garbage and hogwash. I know it when I see it.

When I heard this charge coming from the campaign trail, I could smell it all the way to the Potomac, especially a charge like the one that most farmers who grow wheat had been disadvantaged by this deal.

Actually, I think they will discover from the figures here that 1 week after the announcement of this trade deal with Russia—which allows for some sales in that week—83 percent of the farmers who could have qualified still had their wheat and had not disposed of it, and 17 percent of the farmers had disposed of their wheat. They will get their benefits next season. Their benefits will come in ultimate trading next season.

I heard someone on one of the networks say that most farmers had sold their wheat. That is wrong. It is totally wrong. Incidentally, this was on the ABC network. They had not bothered to check it at all. I do not believe that people who show one farmer on a network who says that he is dissatisfied are giving the American people a fair picture of the grain situation. Anyone can find a farmer who is not satisfied. All one has to do is to ask the first farmer he sees.

Everyone wants to do better. I do not blame them. We all do. However, this business of trying to rub the farmer the wrong way at this very time when he has had the greatest break he has had in years is purely political and ought to be dismissed as such.

Senators will notice that no charge is proved. The whole name of this game is to charge something without proving it. And so we always have the qualification that the U.S. farmer will indeed benefit in the long run with increased trade. We have the qualification that we have reportedly sold the Soviet Union such and such amount of grain. We have the qualification that it is impossible to determine which ones of the grain dealers received the benefit of the taxpayers' $100 million. We have the accusation that the Secretary's action amounts to a conflict of interest. That is for others to decide.

What is being charged here is that the United States, considerably to its own surprise, discovered that farmers do not have the best deal in private wheat sales at the Soviet mission in New York or elsewhere, and discovered that Russia wants to buy more wheat than anyone thought she wanted to buy.

We discovered for the first time that China, which was buying Canadian wheat, suddenly decided to buy U.S. wheat. Would we not think that is good news? Normally we would. But this happens in an election year. Therefore, we have the rule of 1984 which is to say that good news is bad news unless I announce it, and good news cannot be good news unless it is good for me.

That is not a new rule. Rather it is an old political rule.

So my role here is sort of vice president in charge of the elimination of hogwash or executive officer to control of stemming the flow of political garbage or some other title which I will award to myself from time to time. I am free to award that title to myself because there are no East German referees around to decide against me. I can make my own rules just as the East Germans did in the Olympics.

Mr. President, while we are about it, let us eliminate the miasma which pertains to good news and forbids it. Let us for once say that America is doing great. Let us for once say that this is a great country. Let us for once say that we are glad that the farmer is making a lot of money. Let us for once say that the Russian deal was fine and the Chinese deal is good.

Let us for once say that the administration is doing the right thing. Even in the eyes of our opposition we cannot be wrong every day and all the time. So let us look at the shiny side of the medal.

I think I have to keep on saying this, and if we are going every morning to have some kind of special order designed to put a burr under the saddle of the administration, I constitute myself assistant director in charge of putting burrs under the saddles of those who put a burr under the saddle of the administration. And if we want to play this game of burr and double burr and reburr and Aaron Burr and all the rest of the burrs. I will be burring around just as much as any burrer until we have put the burrer back where the burrer belongs, and that is on the path to truth.

Mr. President, I yield back the remainder of my time.

Mr. President, I ask unanimous consent that certain material entitled "The Truth About the Sale of Grain to Russia" be printed in the RECORD.

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

THE TRUTH ABOUT THE SALE OF GRAIN TO RUSSIA

ACCUSATION 1

The grain sale credit agreement with the Soviet Union was negotiated in April and was not announced to farmers and the public until July 8.

FACT: This accusation is absolutely false. The agreement on credit was negotiated starting June 28 and was completed on July 8. The details were announced to the public immediately after the agreement was signed.

ACCUSATION 2

Farmers were not notified of the agreement and thus sold wheat before they were aware of the agreement.

FACT: According to the Crop Reporting Service of the U.S. Department of Agriculture, farmers one week after the agreement was signed still retained control of approximately 83 percent of the 1972 and old crop wheat stocks.

ACCUSATION 3

Rising wheat prices automatically reduce wheat certificate payments, which make up the difference between market prices and support levels on wheat used for food in this country. Thus farmers did not benefit materially from the Russian purchases.

FACT: Wheat certificate payment to farmers will be reduced approximately $130 million, but farmers will benefit from increased prices for wheat sold for export, which will be the largest in history this crop year. The value of feed grain, wheat and soybean stocks controlled by farmers, including the 1972 harvest, will increase in value by approximately $1 billion, primarily as a result of the sales to Russia.

ACCUSATION 4

The Russian housewife is being subsidized by the U.S. taxpayer.

FACT: The export equalization payments on wheat exports to Russia, which make up the difference between U.S. export prices and higher prices paid to U.S. farmers for wheat, are the same as the export payments made on wheat shipments to Japan or any other country. The export equalization payments on the sale of wheat to Russia will cost approximately $120 million. Offsetting this cost is an estimated four-to-one return to the U.S. Treasury arising from the Russian sale. The estimated Treasury and tax savings of $500 million comes from higher returns from wheat stocks held by the government, lower certificate costs, and lower wheat program costs for next year.

ACCUSATION 5

Exporters were tipped off to a potential change in the export payment program a day and-a-half in advance and used this to their advantage.

FACT: Exporters were called and notified that a change in export policy had been made on sales made prior to the previous day. This was to immediately prevent overselling of certain classes of wheat. No information was given to them concerning what action would be taken. That was determined the next day and announced publicly after the market closed. Since the change in export payment applied to sales previously made, the information would not be to any exporter's advantage.

ACCUSATION 6

The Department suppressed a July Agricultural Attache Report from Moscow indicating crop conditions in Russia were deteriorating.

FACT: This report was made a part of an ERS evaluation which was released to the press and was published in such papers as the New York Times, and the Journal of Commerce.

ACCUSATION 7

The Russians received more favorable treatment in the purchase of U.S. grain than other U.S. customers.

FACT: The Russians purchased grain under the same competitive conditions as any other foreign buyer. No concessions were made on credit terms and no concessions were made on price to Russia. Any nation purchasing wheat from U.S. firms has had the same information and terms available to them as any other nation.

THE WHEAT SALE SCANDAL

Mr. CHURCH. Mr. President, I am pleased to join this morning with the Senator from Texas in looking into the grain deal with Russia. This appears to be another scandal which the administration first denies and then, as the days go by and more details become available, hopes will fade away.

Few people remember now, but when Earl Butz was appointed Secretary of Agriculture, Ralston Purina, which had been his employer, arranged a nesting place for his predecessor, Clifford Hardin. When Mr. Butz moved from Ralston Purina to Secretary of Agriculture, Mr. Hardin moved from Secretary of Agriculture to Ralston Purina.

This is just one more illustration of the cozy relationship that exists between big business and the Nixon administration. It is hardly surprising that the wheat sales to Russia were manipulated to funnel the profits to the big grain dealers instead of the farmers.

The estimates of loss to Idaho wheat farmers amount to millions of dollars. The farmer's loss became the big dealer's gain because grain dealers were tipped off in advance. The dealers were thus enabled to purchase wheat before the prices rose, once news of the Russian sale was made public.

Too often, in a discussion of problems in agriculture, we cloud the issue by using the jargon of the trade. We Senators from farm States speak of parity and supports and certificate payments. The wheat scandal evokes a metaphor everyone understands—dealing from the bottom of the deck. It is another example of behind-the-scene manipulation so characteristic of the Nixon administration.

Mr. President, I ask that a memo to my office by the National Farmers Union, together with its supporting documents, appear at this point in the RECORD, as well as an article from the Farmers Union Newsletter entitled "The Grain Sale Scandals," an article from the September 14, 1972, Wall Street Journal entitled "U.S. Suppressed Data That Might Have Aided Farmers in Grain Deal," and an article from the September 15, 1972, Washington Post entitled "U.S. Gave Grain Exporters Tip on New Policy."

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

NATIONAL FARMERS UNION,
August 31, 1972.

URGENT LEGISLATIVE MESSAGE

To: Members of Congress from Major Wheat Producing States.

From: Reuben L. Johnson, Director of Legislative Services.

Enclosed herewith are two statements of Farmers Union national president, Tony T. Dechant, concerning the sale of wheat to Russia; copy of a letter received from a Kansas wheat farmer, Mr. Paul Whitmer together with copy of my reply; articles from the *Washington Post* written by Nick Kotz concerning wheat sales to Russia.

As our press release of August 29, indicates, we feel very strongly that the cloak of secrecy should be lifted concerning such questions as:

(1) How much wheat has been sold to Russia?

(2) What price was paid?

(3) Who received the export subsidy and in what amount?

(4) What are the credit terms?

(5) Who pays shipping charges, etc.?

Farmers would be in much better position to make decisions concerning wheat marketing if they knew the answers to these questions. We will appreciate very much your help in determining the best course of action to get this kind of information to the wheat producers of the Nation.

NATIONAL FARMERS UNION,
Washington, D.C.

WASHINGTON, D.C., August 29, 1972.—Tony T. Dechant, National President of Farmers Union, called upon President Nixon and Secretary of Agriculture Butz today to end "vest pocket" secrecy in export sale of grains and conflict-of-interest shifts of personnel between top grain companies and USDA. Dechant said that large wheat exporting companies have been privy to advance information concerning the extent of government subsidy and credit arrangements on export sales of wheat. The benefit of this information has made windfall profits possible through (1) purchase of wheat before prices went up, and (2) speculating in the wheat futures market.

"Had there been minimum prices in the International Wheat Agreement," Dechant said, "the kind of cozy working relationship that exists between the USDA officials and the private grain trade would not have been possible. Such an Agreement would have moved grain trading operations into the light of public scrutiny. The cloak of secrecy under which the grain trade operates with the blessing of the USDA would have been lifted."

"With the government paying subsidies on every bushel of wheat moving in export, there should be exact figures available on amount of exports, prices received and to whom subsidies are paid. Such information should be made public as soon as it is known to USDA.

"The private club atmosphere that has been created by grain trade officials moving in and out of the Department of Agriculture and the Administration constitutes a conflict-of-interest of the worst kind. In recent months," Dechant said, "two top USDA officials moved to high posts with grain exporting companies, while two officials from grain exporting companies took jobs with the Nixon Administration. In the first instance, I refer to Clarence Palmby who joined Continental Grain and Clifford Pulvermacher who joined Bunge, Inc. In the second instance, William Pearce, formerly a high official of Cargill & Co., joined the White House office concerned with trade negotiations and George Shanklin, a former official of Bunge, Inc. joined USDA where he serves as Assistant General Manager of the Export Marketing Service."

"As in the current situation regarding wheat," Dechant said, "when market prices advance, most farmers have already sold their crop."

"Every wheat producer gets counted in when prices based on balancing supply with demand move to favorable levels and stay there during the wheat harvest season. Only a few will benefit from the present boom and bust market situation. The Department of Agriculture, for example, has announced that exports of wheat will now be limited through adjustment in subsidy arrangements. A cut in market prices to producers will result. This unfortunate development would not have been needed if a realistic price range had been included in the International Wheat Agreement.

FARMERS UNION CHARGES LOSS TO WHEAT FARMERS RESULT OF RUSSIAN DEAL

WASHINGTON, D.C., August 30.—The Russian wheat deal has cost wheat farmers in early-harvest areas an estimated $100 million in government wheat certificate payments, according to Tony Dechant, the national president of the Farmers Union.

This will occur, Dechant said, because the rising wheat market could raise the average price to $1.75 per bushel, or higher during the July to November marketing period. This will have the effect of reducing the federal subsidy by approximately 40 cents a bushel, he said.

Dechant explained that farmers receive the difference between the average price during the five-month marketing period and 100 percent of parity, now estimated at $3.03 a bushel, on that portion of their wheat used in domestic markets. This is slightly less than half the total wheat harvested.

"But those farmers who sold their wheat in July received only $1.30 to $1.35 per bushel," Dechant said. "Their wheat certificate will amount to only $1.28 per bushel, if the average for the five-month period is $1.75—making their total return about 40 cents a bushel less than the full parity price to which they are entitled under law."

Dechant charged that the situation is the result of the secrecy surrounding the Russian wheat deal. "Full details should have been announced in advance so that farmers could have made better judgments at the time of harvest," he said.

Dechant estimated that farmers may have sold between 400 and 500 million bushels of wheat in July in such early-harvest areas as Texas, Oklahoma, Kansas and parts of Nebraska and South Dakota. "They were entitled to 100 percent of parity on about half of this wheat," he said. "Instead, they will receive less than 90 percent of parity."

THE GRAIN SALE SCANDAL

The wheat sale to Russian could have been a feather in Mr. Nixon's political cap. Wheat farmers, who had been suffering from low prices during the first 3 years of the Administration, suddenly found prices rising sharply. But instead of reaping political advantage, the Administration finds itself charged with conflict of interest and shady dealings with the grain trade, at the expense of thousands of wheat producers.

Farmers Union National President, Tony Dechant, had warned against the developing conflict of interest during Earl Butz's confirmation hearings last November. He said Butz and former Secretary Hardin were playing "musical chairs" in swapping their respective positions between USDA and Ralston Purina. In December, William Pearce left Cargill & Co. to become a White House advisor. The "cozy relationship" advanced further in June when Clarence Palmby resigned as USDA Assistant Secretary to become vice president of Continental Grain. Clifford Pulvermacher, chief of the Export Marketing Service, switched places with George Shanklin at Bunge, Inc. Palmby and Pulvermacher were members of the negotiating team which met in Russia last April. They resigned from the USDA before the grain deal was announced.

Due to this "clubbish atmosphere," grain traders had advance information on the Russian sale and were able to buy up supplies at low prices, both on the cash and future markets. Carroll Brunthaver, a former executive with the Cook Co., who moved up to replace Palmby at USDA, gave assurances to traders that subsidies would be raised.

But the producer's share of higher prices was left strictly to chance. Those producers who still had wheat to sell after the magnitude of the Russian sale became general knowledge, were able to sell at higher prices. But those who sold earlier at lower prices lost out and unwittingly contributed to the grain trade windfall. A prominent Wilson, Kansas wheat producer wrote to Farmers Union saying, "I feel cheated. . . I sold my wheat at $1.34 per bushel soon after harvest. It seems to me that 'Tricky Dick' was up to his old tricks. He only let his fat cats know about the wheat deal. They stole a lot of wheat at a low price before the price went up. . . To make it worse, I will also lose the last certificate payments."

In answer to this wheat producer, and others, Farmers Union National Director of Legislative Services, Reuben Johnson, replied that besides selling at a low price, early harvest producers will receive about 41 cents less per bushel. Johnson explained, "Certificate payments represent the difference between a 5-month average market price and parity ($3.03). If that average price rises to say $1.75, the producer who sold at $1.34 will lose the 41 cents difference."

President Nixon's trips to China and Russia have been highly touted as proof of his ability in foreign affairs. It is hard to believe that his negotiators were fooled into thinking that the grain sale would be much smaller and consist mostly of feed grains. But even if that is the case, the USDA should have kept everyone advised as the true picture emerged. The fact that subsequent negotiations were between private companies and the Russians is no excuse for not publicizing details. The USDA uses taxpayers' dollars to subsidize traders for every bushel of wheat in the deal. It must (or should) know every detail of every sale.

Administration officials have been suggesting that expanded exports will alleviate the need for farm programs. Yet Clarence Palmby, who until recently was head of international affairs and commodity programs at USDA, deliberately undercut attempts to include minimum prices in the International Wheat Agreement. With an orderly system of international trade, the present scandal could not have taken place because details of the sale would have been above board for all to see.

As it now stands, the kindest charge that can be made is utter incompetence. Other foreign markets are upset because Russia is receiving a privileged deal; U.S. producers have been bilked out of some $100 million; bakers are demanding increased prices; a consumer's group, many Congressmen, and the South Dakota Farmers Union have called for Congressional investigations.

[From the Wall Street Journal, Sept. 14, 1972]

SECRET STUDY: U.S. SUPPRESSED DATA THAT MIGHT HAVE AIDED FARMERS IN GRAIN DEAL

(By Burt Schorr)

WASHINGTON.—Agriculture Secretary Earl Butz's spirited defense of the way the Nixon administration has handled the Russian wheat deal may be in for another jolt.

The setback: disclosure that his department suppressed a report that might have helped U.S. farmers get higher prices for their wheat. Questions about what the report contains and why it was withheld from the public are expected to be raised today when a House Agriculture subcommittee opens hearings into the entire Russian grain transaction.

The report, an analysis of Soviet crop conditions completed in mid-August by the Agriculture Department's economic research service, concluded that the outlook for Russian grain production this year had worsened from an earlier estimate. But the study was never released because the research service deemed the findings "too controversial" and classified the analysis "confidential."

Publication of the study, of course, might have provided another dose of bullish news for already surging wheat markets. Farmers with wheat to sell presumably would have benefited from this. But exporters faced with the need to cover short-term foreign deliveries with cash-market purchases wouldn't have been happy. The Agriculture Department itself, debating at the time whether to continue increasing wheat-export subsidies to exporters in pace with rising domestic market prices, would have found its own problems greatly compounded.

[U.S. officials yesterday announced that the United States has sold a quantity of wheat to China. Rumors in the trade put the amount at 20 million bushels, valued at more than $30 million. See story on page 3.]

The decision to withhold the analysis will undoubtedly be seized upon by Sen. George McGovern as fresh evidence to support his allegations that the department cooperated with grain exporters to assure them cheap wheat for Soviet sales at the expense of U.S. farmers and consumers.

BUTZ TO APPEAR TODAY

Mr. Butz has been insisting all along that "not a single shred of evidence" exists to support the Democratic presidential nominee's charges. Living up to his reputation as President Nixon's most outspoken campaign surrogate, the Agriculture Secretary has held two press conferences here since Saturday to emphasize that point. His rebuttal is expected to continue today when he appears before the House Livestock and Grains subcommittee.

Among the topics to be probed by the committee: Has back-and-forth swapping of executives between Mr. Butz's department and grain-export companies led to conflicts of interest regarding the Russian purchases? Did Uncle Sam shell out too much in wheat-export subsidies, making the price paid by the Russians cheaper than it need have been?

Where the Secretary may face his greatest difficulty, though, is convincing the committee—and rural voters—that his department did everything possible to alert U.S. producers to the magnitude of Soviet grain needs. Statistics are still lacking, but a sizable number of growers at the southern end of the winter wheat belt (where the harvest starts) apparently sold their 1972 crop too soon to benefit from the 30% jump in prices that resulted as the full extent of Russian buying surfaced.

"Some of the guys in Texas and Oklahoma are quite upset over missing the price," says Jerry Rees, executive vice president of the National Association of Wheat Growers. Adding to the disappointment is the provision in current farm law that shrinks the government subsidy to producers as market prices rise—a feature estimated by the National Farmers Union to have lopped $100 million from payments for the current marketing year. Thus, a farmer who sold his wheat before the price runup also will face a smaller government check than he anticipated at planting time.

EARLIER CHARGES

Earlier charges of inadequate information from the Agriculture Department were made by John Schnittker, who was Under Secretary of Agriculture during the Johnson administration. Now a Washington commodity consultant as well as a McGovern supporter, Mr. Schnittker claimed that the U.S. agriculture attaché in Moscow filed reports in June and August that disclosed more about the Soviet grain situation than was known in the U.S. at the time—but the department didn't release them.

Officials in the department's foreign agricultural service confirm that such attache reports indeed are being held in a "confidential" file, separate from the bulk of attache reports available to the public. The confidential reports, in fact, along with weather satellite information and other data, were used by the department's economic research service to prepare the "special high-

light" analysis dated Aug. 18. It was this study that projected a further decline in Russian production of wheat and other food grains from estimates contained in a similar analysis done in July.

But while the research service had released the July study to the public, it elected not to do the same for the August one, circulating it instead only among a select group of top department officials. Those with knowledge of the August study say the decision against making it public was partly influenced by the belief of still other analysts in the foreign agriculture service that the new estimate was too tentative to be reliable. Yet the biggest factor appears to have been fear that the August analysis was, as one economic research service man put it, "too controversial" in view of turbulent wheat-market conditions at the time.

To understand this reasoning, it's useful to reconstruct the wheat-market situation in the weeks before and after the Aug. 18 analysis. The chronology, to the extent it's known:

June 28. The newly arrived Soviet delegation to negotiate a grain deal notifies U.S. officials of its willingness to accept Washington's basic terms for Commodity Credit Corp. financing of Russian grain purchases. At the time, the domestic price of No. 2 hard red winter wheat at Gulf ports stands at $1.64 a bushel, with the department offering to pay a one-cent subsidy to exporters. That's in accord with its established policy of maintaining U.S. wheat at approximately $1.63 in the world market for competitive reasons.

July 8. The $750 million, three-year deal between the two countries is announced. Secretary Butz predicts U.S. sales actually could exceed $1 billion (the figure for the first year alone now appears certain to equal that), but he and other officials indicate that it's mostly corn and other feed grains that the Soviets want, rather than wheat.

June 28–July 21. A Soviet grain-buying mission, which arrived with the agreement negotiators, quietly places orders for roughly 250 million bushels of wheat to be shipped before next June 30. By July 21, the Gulf price is up to about $1.76, and the subsidy is 13 cents.

July 29 to about Aug. 20. After having returned home, the Soviet grain buyers suddenly reappear in New York and resume negotiations with grain companies for still more wheat.

Aug. 1. With the Gulf price up to about $1.80, Agriculture Department officials grow concerned about rising subsidy costs and the fact that the expanding subsidy may be pushing, rather than following, the domestic price. They decide to let export wheat move above the $1.63 line by allowing the subsidy to lag behind domestic prices.

Aug. 8. Southwestern Miller, a trade publication, prints the first report that Soviet wheat purchases will reach 400 million bushels in the current marketing year, an amount almost equal to two-thirds of total wheat exports in 1971–72. Department officials, claiming they didn't have the news before anyone else, later say they're pleased but mystified by the unexpected orders. (A few department experts wonder privately, though, if the July 8 grain agreement was a smoke screen; the majority of Russian buying has been in wheat, not feed grains, and mostly for cash, not credit.)

Aug. 24. With the Gulf price up to about $2.14 and the subsidy a fat 38 cents, the department advises exporters that it's going to permanently abandon its "commitment" to maintain the $1.63 world price. The decision reflects Nixon administration concern that the subsidies' effect on domestic prices could lead to embarrassing bread-price boosts.

Aug. 25. At a meeting with grain-trade representatives to which the press is reluctantly admitted, Assistant Agriculture Secretary Carroll Brunthaver announces the policy change. Apparently influenced by exporters' protests, though, the department offers an unusual nine-cent retroactive supplement to the 38-cent subsidy to cover export sales made through Aug. 24 and registered by Sept. 1. Some 280 million bushels qualify for this provision, representing almost a 60% jump in the wheat registered since July 1 and lifting estimated subsidy costs to almost $250 million in the first two months of the marketing year. (Wheat subsidies last year amounted to only $65.4 million, and the high was $160 million in the 1965–66 crop year.)

When the economic research service put out its first special highlight appraisal of current Soviet grain crop prospects, on July 14, it found that Russian food-grain production, primarily wheat, would be down "roughly" 20 million metric tons from the 113 million tons harvested in 1971. (A metric ton is approximately 2,200 pounds.)

The July report didn't have any discernible impact on grain traders, however, apparently because it merely confirmed Soviet supply needs already evident from the actions of Russian buying missions in Canada, the U.S. and elsewhere. The general expectation at that time was that Russia would have to import 14 million to 15 million tons of grain for itself and its East European allies, including the approximately 250 million bushels, (or 7 million tons) negotiated in the first round of purchases in the U.S.

Reexamining the situation a month later, the economic research service decided to lower the Soviet food-grain production figure by another 7 million tons, to 86 million tons. The reduction apparently reflected the attache's opinion that severe cold, drought and finally record-breaking heat in the Ukraine and other Soviet winter-wheat regions had caused more damage than initially believed.

Critics of the administration contend that big grain exporters knew by the time of the study's completion that the Soviets actually had committed themselves to buying some 11 million tons of U.S. wheat, rather than the 7 million originally calculated. But most farmers probably didn't have any idea the Russian commitment was that big, these critics say. They say issuance of the analysis would have helped to spread the news more quickly.

Mr. Schnittker, for one, believes that even now Soviet needs for the year may be understated. His reasoning: Due to their winter-wheat troubles, the Russians must rely more than usual on the "new lands" of Western Siberia and Northern Kazakhstan, where the harvest of most of the now-vital Russian spring-wheat crop has just begun. Although soil moisture has improved in the new lands following a spring dry spell, conditions there still could yield a final harvest below the 45 million to 48 million tons that Western experts project.

Because the U.S. attache was permitted to make a rare visit to the remote region last month, his findings, if made public, could provide further important clues to the Soviet outlook, Mr. Schnittker believes.

UNITED STATES GAVE GRAIN EXPORTERS TIP ON NEW POLICY, AIDE SAYS

(By Nick Kotz)

An Agriculture Department official admitted yesterday that grain exporters selling wheat to Russia received advance information of a policy change. They could have used that information to make a profit at taxpayers' expense, another official testified.

Charles Pence, director of the grain division of USDA's export marketing service, told reporters he had telephoned grain exporters telling them that U.S. export subsidies would be lowered under a new USDA policy.

Carroll Brunthaver, assistant agriculture secretary for international affairs, told a House agriculture subcommittee that such advance information could have permitted a firm to make a quick deal and get a higher federal subsidy payment.

Both Brunthaver and Agriculture Secretary Earl Butz denied in testimony before the subcommittee that traders had advance warning of the Aug. 25 policy change.

Pence, however, in interviews with reporters, said he had called the exporters on Brunthaver's orders, which were relayed to him by another USDA official, Frank McKnight.

Told of Pence's statement, Brunthaver at first said, "I know nothing about it," and later said: "I don't know. I will have to check my calendar."

Rep. Graham Purcell (D-Tex.), chairman of the subcommittee, said he wanted Pence to testify next Monday morning. Brunthaver replied that Pence had been scheduled to leave for Japan last night, but later he said the trip would be cancelled and Pence would appear.

The Pence controversy is the latest element in a growing controversy over who benefitted from a $1 billion sale of U.S. wheat and other grains to the Soviet Union.

The U.S.-Soviet agreement for credit terms was announced July 8, but since then it has gradually become known that the Soviets bought far more wheat than expected—a total of about 400 million bushels which is more than one-fourth of total U.S. production.

The essential controversy, raised by Purcell and other congressmen and by presidential candidate George McGovern, is whether USDA handled information in a way that benefitted the exporters and hurt consumers, farmers, and domestic wheat users such as bakers.

Farmers in the southwest complain they sold their wheat at low prices in July, not realizing that a huge trade was unfolding that would cause the price of wheat to soar in August.

In testifying before the subcommittee yesterday, Butz insisted that the huge wheat purchase came as a surprise to USDA, the traders, and even the Russians, and that no one benefitted from inside information.

Butz said the United States will benefit from the sale—the largest of its kind in history—in an improved U.S. balance of payments, tax savings on lower price supports for farmers, higher farmer income, and better relations with the Soviet Union. He warned that future sales to the Soviets are endangered by the controversy.

Purcell and other critics responded that they favored the huge sale, but are concerned that exporters gained unfair advantage, and that a cozy relationship existed in which officials moved back and forth between export firms and the Agriculture Department.

Pence's telephone calls to the traders is but one of a number of circumstances that subcommittee is investigating to see how USDA handled the grain sales.

Rep. John Melcher (D-Mont.) asked whether any agriculture officials including Pence had called exporters in advance of an Aug. 25 policy change on federal export subsidies. Butz and Brunthaver replied that no such calls were made, but Brunthaver acknowledged that advance information "could have benefitted someone . . . they could have made a deal or a sale."

The subsidy is designed to help export U.S. wheat against foreign competition while maintaining prices for domestic wheat, thereby benefitting farmers. The export subsidy was about 7 cents a bushel in early July but rose to 38 cents by Aug. 25.

USDA announced late on Aug. 25 that it no longer would raise the export subsidy to match rises in the domestic price. However, it gave exporters one week to sign up for even

higher subsidies on any grain sales made before 3:30 p.m. Aug. 24. On these sales, USDA said this was justified because exporters had been led to believe the subsidies would continue to rise.

During one-week grace period, exporters registered more than 280 million bushels of wheat for the higher subsidy, at a total federal cost of $130 million.

Pence told reporters that, on orders from McKnight and Brunthaver, he started telephoning the six export firms involved in the Soviet sale. Beginning before noon and finishing shortly after noon of Aug. 24, Pence said, he called officials of Continental Grain Co., Cargil, Inc., Bunge Corp., Cook Industries, Louis-Dreyfus and Co., and Garnack Grain Co. Later, he said he called other exporters so everyone "would have the word."

Following instructions, Pence said, he told the exporters that USDA would no longer increase the export price to match domestic price to match domestic rises" and in any new sales they would have to take the risk on their own" (that they could buy wheat at a price to make a profit).

As matters turned out, Pence's information could have been very valuable to a trader.

At the least, a trader knew that he had better move fast to close sales on which he would be guaranteed a 38 cents subsidy. At best, traders who closed sales before 3:30 p.m. on Aug. 24 got the special 47-cent subsidy.

For example, the Dreyfus firm sold 15 million bushels of wheat to China registered on Sept. 11, the last possible day to qualify for the special subsidy for sales made prior to Aug. 25.

The French firm received less than $6 million in subsidies, but would have received only about half that amount if the sale were made after Aug. 24.

USDA repeatedly told the subcommittee it does not know how much grain was sold by various grain companies, what price they charged the Soviet Union, how much subsidy each is getting, or when and at what price the exporters purchased the grain in the United States. These are the key questions in determining who benefited how much from the sale.

After Butz repeatedly said "I don't know" the answer to these questions, Rep. Bob Bergland (D-Minn.) commented: "I'm perplexed that the department is so ill-informed on what is going on in this grain deal."

Republicans on the subcommittee generally stoutly defended Butz's handling of the grain deal, but Rep. John Zwach (R-Minn.) said he is disurbed at USDA handling of information and about possible conflict of interest in the interchange of officials between USDA and private grain firms.

TRANSACTION OF MORNING BUSINESS

The PRESIDENT pro tempore. At this time, in a accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 15 minutes, with speeches by Senators limited to 3 minutes.

Is there morning business to be transacted at this time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROPOSED ESTABLISHMENT OF FRENCH PETE INTERMEDIATE RECREATION AREA

Mr. PACKWOOD. Mr. President, one of the critical conservation issues for Oregonians and many, many Americans across the Nation, is a 19,200 acre tract in the Willamette National Forest known as "French Pete." No private lands are involved. The controversy centers around whether the Forest Service should manage this under a plan which would allow timber harvesting in some areas, or whether this beautiful area should be protected and kept as an unroaded, uncut, serene recreation area.

I have now pending in this Congress a bill, S. 866, which would establish the French Pete Intermediate Recreation Area. On May 25 of this year, the Senator from Nevada (Mr. BIBLE) graciously held hearings in his Subcommittee on Parks and Recreation on this important bill. Because of heavy committee work, he was unable to schedule field hearings in Oregon on this bill. That subcommittee has an infinite number of similar bills before it at all times, and must devote considerable time to each one that is scheduled. Of course, supporters of all these bills would like to have field hearings, but such is not possible. The Senator from Nevada (Mr. BIBLE) stated at those hearings here on S. 866, his desire to be able to go to Oregon, but I understand his problems. I certainly appreciate the time his committee has devoted to S. 866.

The citizens of Oregon who are concerned with preserving this unique valley, however, at their own expense sponsored independent citizen hearings in Eugene, Oreg., on May 16, 1972. This group of concerned citizens paid all the expenses of that hearing, and even hired a court reporter to take down the proceedings and prepare a hearing record. The cost of the hearings, reporter, advertising, transcript, and so forth, were personally and privately paid for by those citizens interested in preserving French Pete Valley as a recreation area.

Now, because the Committee on Interior and Insular Affairs, already heavily ladened with committee expenses, and under the crush of a closing session, is unable to print the hearing record of May 25, and to include the transcript of the Eugene hearing, there appears no way to put this important document before the American public. The committee burdened at this eleventh hour, realizing that the House had not acted upon a similar bill, and that as a result Congress would not pass a French Pete bill this year, has made the decision that it is unwise and an unneeded expense to print the hearing record. I sympathize with the committee, and am deeply appreciative of their help, concern and cooperation to me and to thousands of Americans who have an interest in French Pete.

Senator HATFIELD had told the people of Oregon that when the Interior and Insular Affairs Committee hearing record on S. 866 was printed, he would have inserted in it the transcript of the hearing record from Eugene. Through no one's fault this is now impossible, because there will be no Interior Committee print at all.

For these reasons I feel privileged, and Senator HATFIELD joins with me on behalf of those Oregonians who gave of their time and money to provide the Eugene hearing, to ask unanimous consent that the transcript of the May 16 hearings in Eugene, Oreg., be printed in the RECORD following my remarks. This is a valuable document of spontaneous citizen action, and it will be most useful next year, when I shall once again introduce legislation to preserve and protect the French Pete Creek Watershed as a recreation area for all time.

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

HEARING ON ESTABLISHMENT OF THE FRENCH PETE CREEK INTERMEDIATE RECREATION AREA, SENATE BILL NO. 866

TRANSCRIPT OF PROCEEDINGS

Hearing held in Eugene, Oregon, beginning at 9:00 a.m., Tuesday, the 16th day of May, 1972, in the City Council Chambers, before: Frank Barry, Chairman; Ms. Nancy Hayward, Fred Mohr, Rev. Bob Peters, and Roger Mellem, Coordinator.

WITNESSES

Mr. Charles O. Porter, 2680 Baker Street, Eugene, Oregon 97405.

Mr. James Weaver, 2301 Spring Blvd., Eugene, Oregon 97405.

Mr. Pete Sorenson, Survival Center, University of Oregon, Eugene, Oregon 97403.

Mr. Irving Brant, 1575 Ferry Street, Eugene, Oregon, 97401.

Mr. Jon Kemp, 2310 Trillium, Eugene, Oregon.

Ms. Claire Trotter, 1975 Potter, Eugene, Oregon.

Mr. Fred Keppel, Rt. 3, Box 412, Springfield, Oregon 97477.

Mr. John H. Bigelow, Box 31, McKenzie Bridge, Oregon.

Mr. Holway Jones, Library, University of Oregon, Eugene, Oregon 97403.

Mr. Steve McCarthy, 1646 N. W. 32nd., Portland, Oregon.

Mr. Peter Glazer, 1947 Kinkaid #2, Eugene, Oregon 97405.

Mr. James Baker, Finn Rock, Oregon 97401.

Mr. Harold M. Dunn, Mohawk Star Route Box 5, Springfield, Oregon.

Mr. Kerry M. Killgallon, 1237 East 21st, Eugene, Oregon 97402.

Mr. Joe Walicki, 1632½ High, Eugene, Oregon 97401.

Ms. Janet C. Newman, 2161 University St., Eugene, Oregon 97403.

Ms. Elizabeth Frenkel, 1431 Vista Place, Corvallis, Oregon.

Mr. Robert E. Frenkel, 1431 Vista Place, Corvallis, Oregon.

Mr. David Graham Novick, 1000 Patterson, Eugene, Oregon 97401.

Ms. Catherine Landon, 2093 Lawrence, Eugene, Oregon.

Mr. Bernard Conklin, 1204 W. 4th Avenue, Eugene, Oregon.

Ms. Diane Meyer, P.O. Box 819, Ashland, Oregon 97520.

Mr. Doug Newman, 2161 University Street, Eugene, Oregon.

Mark Soloos, 4550 Pearl, Eugene, Oregon.

Ms. Barbara Hoga, Oceanside, Oregon.

Mr. Dave McAllister, 1361 E. 21st, Eugene, Oregon.

Mr. Bob L. Wynia, 265 Barber Drive, Eugene, Oregon.

Mr. Bruce Sedgwick, 420 Monroe Street, Eugene, Oregon.

Ms. Donna Reimi, Box #1 Hawthorne Walton, University of Oregon, Eugene, Oregon.
Mr. Cecil Stickney, 33 E. 10th, Eugene, Oregon.
Mr. Tom Moore, 1975 Lawrence Street, Eugene, Oregon.
Ms. Catherine Lauris, 1240 East 18th, Eugene, Oregon.
Mr. Ed Reiman, 507 W. 11th, Eugene, Oregon.
Ms. Libby Evans, Eugene, Oregon.
Mr. Steve Wilson, 1361 E. 21st, Eugene, Oregon.
Mr. Al King, 484 West 13th, Eugene, Oregon 97401.
Mr. Bob Foster, 1883 University St., Eugene, Oregon 97403.
Dr. Herbert McCormack, 156 E. 19th Avenue, Eugene, Oregon.
Ms. Mardee Pagac, 2042 14th Place W., Eugene, Oregon.
Mr. Scott Peterson, 1893 Garde Avenue #14, Eugene, Oregon 97403.
Shirley Terreberry, 3615 Glen Oak, Eugene, Oregon 97405.
Mr. Ray Edwards, Box 172 Star Route, Fall Creek, Oregon 97438.
Mr. Paul T. Happel, 1893 Garden Avenue #13, Eugene, Oregon.
Mr. Jeg Elphinston, 1893 Garden Avenue #13, Eugene, Oregon.
Ms. Jill Warrington, 1859½ Jefferson, Eugene, Oregon.
Mr. LeRoy Owens, 2262 E. 15th, Eugene, Oregon.
Ms. Charles W. Foss, 3450 Donald Street, Eugene, Oregon.
Mr. Bill Turner, 1864 E. 15th, Eugene, Oregon.
Mr. Mel Jackson, 2865 Ferry Street, Eugene, Oregon.
Mr. L. E. Ward, 3150 Emerald Street, Eugene, Oregon.
Mr. Joseph Holaday, 242 S. Garden Way, Eugene, Oregon.
Ms. Susan B. Girardeau, 2398 Douglas Drive, Eugene, Oregon.
Mrs. Ed Sullivan, Route 7, Box 88, Eugene, Oregon 97405.
Mr. Donald A. Watson, 1285 E. 20th, Eugene, Oregon 97403.
Mr. Edward H. Vogt, 760 Vogt Lane, Junction City, Oregon.
Ms. Joyce Salisbury, 3330 Olive, Eugene, Oregon.
Mr. Stanton A. Cook, 1832 Longview Avenue, Eugene, Oregon 97403.
Mr. Ken Babbs, Route 2, Box 267, Maple Isle Lane, Eugene, Oregon.
Ms. Margaret Patoine, 2552 Alder Street, Eugene, Oregon.
Ms. Elizabeth Shaw, 1910 Van Buren, Eugene, Oregon 97405.
Mr. Jerry L. Edin, 45 Azalea, Eugene, Oregon.
Mr. Glen A. Love, 393 FulVue Drive, Eugene, Oregon.
Mrs. R. D. Waddell, 2425 Malabar Drive, Eugene, Oregon.
Mr. Brian Higbee, 680 Hunsacker Lane, Eugene, Oregon.
Mr. William E. Peterson, 665 Level Lane, Springfield, Oregon.
Mr. Allen H. Coons, 2742 Wingate Street, Eugene, Oregon 97401.
Mr. Thomas Drischler, 1540 S. Brooklin, Eugene, Oregon.
Mr. Peter C. Murphy, 2820 City View Street, Eugene, Oregon.
Mr. Robin Lodewick, 2526 University Street, Eugene, Oregon.
Mr. Scott Pressman, 1644 E. 27th, Eugene, Oregon.
Ms. Pauline Sandoz Lee, 1374 Willamette, Eugene, Oregon.
Mr. Kenneth Hertz, 328 W. 20th Avenue, Eugene, Oregon 97405.
Mr. Bernt Hansen, 1555 Jefferson, Eugene, Oregon.
Mr. J. K. Dohnal, 2550 Harris Street, Eugene, Oregon.
Mr. John E. Frohnmayer, 1975 Olive Street, Eugene, Oregon.
Ms. Janelle S. May, 340 N. W. 26th, Corvallis, Oregon.
Mr. Howard Bonnett, 775 E. 22nd Avenue, Eugene, Oregon.
Mr. Thomas C. Miller, 542½ E. 12th, Eugene, Oregon.
Mr. John Eliassen, 1836 Charnelton, Eugene, Oregon.
Ms. Sue Blix, 2295 E. 29th, Eugene, Oregon.
Mr. Robert Edminston, Box 1265, Eugene, Oregon.
Ms. Robbie Smith, 1380 Lincoln, Eugene, Oregon.
Mr. Ray L. Smith, 1382 Lincoln, Eugene, Oregon.
Mr. Thom Nelson, 1331 W. 10th, Eugene, Oregon 97402.
Ms. Esther Leong, Route 4, Box 306, Eugene, Oregon.
Mr. Ewart M. Baldwin, 2058 Harris Street, Eugene, Oregon 97405.
Mr. Jonathan M. Hoffman, 1762 Ferry, Apt. 3, Eugene, Oregon 97401.
Mr. Ernest H. Lund, 3150 Onyx Street, Eugene, Oregon.
Mr. Darryl D. Carper, 1630 South Tudor Street, Albany, Oregon.
Mr. Brock Evans, 4534½ University Way N.E., Seattle, Washington.
Ms. Libby Evans, 3519 Willamette, Eugene, Oregon.
Ms. Edna Wingard, 385 East 19th, Eugene, Oregon 97401.
Mr. Ben Merrill, 1947 Kincaid #2, Eugene, Oregon 97405.
Mr. Wallace E. Baldinger, 1790 Walnut Street, Eugene, Oregon 97403.
Mr. Edward Mehlhaff, 1671 Ferry #15, Eugene, Oregon.
Mr. William N. Copeland, 511 E. 12th, Eugene, Oregon 97403.
Mr. Jay West, 2028 University St., Eugene, Oregon.
Mr. Alan L. Fraback, 1000 Patterson, Eugene, Oregon.
Mr. John Koford, 957 Hilyard, Eugene, Oregon.
Mr. Tom Taylor, 1835 Jefferson, Eugene, Oregon.
Mr. W. F. Maxwell, 633 E. 11th, Eugene, Oregon.
Mr. Jon Spangler, 1670 Alder Street, Eugene, Oregon 97401.
Mr. Richard F. Freeman, 1140 6th Avenue West, Eugene, Oregon 97402.
Mr. Gerritt Rosenthal, Box 5515, Eugene, Oregon.
Ms. Elizabeth Bruce Riggs, 6715 Royal Avenue, Eugene, Oregon.
Mr. Mike McKeegan, 10b Lincoln Street Eugene, Oregon.
Mr. Don L. Hunter, 2608 Central Blvd., Eugene, Oregon 97403.
Mr. Richard Cooke, 1943 Agate Street, Eugene, Oregon.
Mr. Alva C. Good, Present Place Rd., Fall Creek, Oregon 97438.
Ms. Charlotte Schellman, 780 Lorane Hwy., Eugene, Oregon.
Ms. Myra Miller, 2123 Madison, Eugene, Oregon.
Mr. James Anderson, 1860 Potter St., Eugene, Oregon 97403.
Mr. David E. Leighton, 65 W. 35th Place, Eugene, Oregon.
Mr. Arnold L. Gibson, 1753 Walnut Street, Eugene, Oregon 97403.
Mr. Harry Van Oubenallen, 1757 E. 17th Avenue, Eugene, Oregon.
Mr. Courtney Shives 1725 N. 5th, No. 38, Springfield, Oregon 97477.
Mr. Don Willner, Portland, Oregon.
Mr. Michael P. Ryan, Apt. 18, 1414 East 18th, Eugene, Oregon 97403.
Mr. Robert Craig, 2159 Emerald, Eugene, Oregon 97403.
Mr. Fred Swanson, 10 East 49th Avenue, Eugene, Oregon 97405.
Mr. Boyd Kramer, 4525 Spring Drive, Eugene, Oregon 97405.
Mr. George Adams, 715 Leigh Street, Eugene, Oregon 97401.
Mr. William D. Engs, 1330 E. 20th Avenue, Eugene, Oregon 97403.
Mr. Roger Mellem, 2870 Potter Street, Eugene, Oregon.
Mr. David Howe, City of Eugene, Parks and Recreation Dept., Eugene, Oregon.

TESTIMONY TAKEN IN MORNING SESSION

Mr. BARRY. This is the time for the hearing on the establishment of the French Pete Creek Intermediate Recreation Area, which is to be established by the Bill—Senate 866. This is not an official hearing of the U.S. Senate. We have attempted to persuade the members of the Senate Committee to grant such a hearing, but have been unsuccessful; however, we believe that it is in the interest of the people of this area and of Oregon in general that local hearings be given so that the local people would have an opportunity to express their views on Senator Packwood's Bill S-866.

Our first witness will be the supervisor of Willamette National Forest, Mr. Zane Grey Smith, Jr., who will describe the area, what its present legal status is, and within the limits of that status what his plans are for the French Pete Creek area. At the present time, the area is not protected against logging or roading. The purpose of Senator Packwood's bill is to afford such protection, among other things.

The statements that Mr. Smith will make at this hearing will not be included in the transcript which will go back to Washington for the understandable reason that the Department of Agriculture and Forest Service's position will be expressed at the Washington hearing.

Mr. Smith has kindly agreed to give us this presentation to start off with so that we will have a context in which to address our remarks. Mr. Smith.

(Mr. Smith then gave his presentation.)

Mr. BARRY. Thank you very, very much, Mr. Smith; we appreciate your coming here and giving us this basic information.

At this time I would like to introduce the members who are on the panel. I am Frank Barry; I am a Professor of Law. On my right is Mrs. Hayward, who is a member of the Board of Commissioners, Lane County; Mr. Fred Mohr, who is a member of the City Council of the City of Eugene. On my left is Rev. Peters, Robert Peters, who is the Methodist Campus Minister.

Now, I have a telegram to read from Senator George McGovern to this hearing: "I am in full accord with your efforts to save the French Pete Wilderness Area. This rare and precious gift must be protected, and I applaud your vigilence because American Wilderness Areas are constantly threatened, I ask that you join with me now to bring about a change of national leadership. Together we can restore a proper balance between ourselves and our environment. With sincerest best regards, George McGovern, U.S. Senate."

Are there any other representatives of presidential candidates present. (No response).

We will hear the Congressional candidates from the Fourth District, which as far as I know are the only ones here right now. The first person would be Mr. Charles O. Porter.

Mr. PORTER. Thank you. Mr. Chairman, and members of the committee, I appreciate this opportunity to put myself formally on record as opposed to logging the French Pete Valley and in favor of S. 866 to establish the French Pete Creek Intermediate Recreation Area, which among other things, it occurs to me, would protect that area from the kind of entry that was made on the other side of the mountain years ago, much to our consternation.

The Forest Service, and here I am talking

about the presentation of Mr. Smith who represents them and for whom I have great respect, but I don't consider Zane Smith or the Forest Service infallible and Mr. Smith told me the other day, and he indicated as much here today, although he didn't put a date on it here today, that 1976 would be about the earliest time that the logging could begin in there. He could not say at this time whether or not logging would include clear-cutting. Clear-cutting, as everyone knows, is a standard and often times, very justifiable method of logging.

I have two suggestions in my short statement here today, one for the Forest Service and one for the conservationists.

To Forest Service Chief Maguire and Willamette Forest Supervisor Zane Smith I suggest they now review possible sale plans for French Pete Valley by the criteria set forth in the March, 1972 report of the Senate Subcommittee on Public Lands. On March 29, 1972, both retiring Chief Ed Cliff and the present Chief pledged Forest Service adherence to the harvesting guidelines set forth on pages 8 and 9 of that report, including such limitations on clear-cutting as: (and I quote)

"There is no assurance that the area can be adequately restocked within five years after harvest." That is often true in places where there are bad soils and there are some bad soils in terms of regeneration in this area.

"Aesthetic values outweigh other considerations." In terms of the French Pete Area, aesthetic values outweigh other considerations in the opinion of many of us here.

Another criterion, "the method is preferred only because it will give the greatest dollar return or the greatest unit output." And that is very plain.

In the standards set forth in those harvesting guidelines which forbid clear-cutting, it would seem that since these are official Forest Service guidelines, now, because they have been adopted by the Chief, even though they haven't come down yet in the form of regulations, they are guidelines for the Forest Service, that the whole question of whether to go into French Pete at all might well be settled by review in terms of these guidelines, which are now, in effect, law of the land.

And for my suggestion to the conservationists, among whom I count myself, if S. 866 not be enacted, and I hope it will be, and if the eventual logging sales involve clear-cutting, as they probably will, and any of the harvesting guidelines are not sufficiently observed, then a conservationist group, such as the Sierra Club, can bring the Forest Service into the U.S. District Court to have a factual determination whether or not the particular sale means that federal timber is being mined, which is illegal, or only harvested.

The maintenance of forest productivity is mandatory with respect to all federal timber sales. This proposition was resoundingly proclaimed in a decision on May 3, 1972, by the U.S. Court of Appeals for the Ninth Circuit in the *Family Clan* case in Portland and in which it was my pleasure to represent the successful appellants.

I urge early enactment of S. 866; I thank you for your intelligent and persistent efforts to preserve the French Pete Valley. Your devotion and ability may well make the difference for this wilderness area.

Thank you very much.

Mr. BARRY. Thank you very much, Mr. Porter.

We have copies of the bill. We don't have sufficient copies to be able to pass them out, but I am going to ask the attendants if they will post in some conspicuous place out there a copy of the bill, so if you would look at it, you will see what it provides. It isn't very long, but I am not going to take the time to read it. It closes the area to logging and dedicates it to recreation, in broad terms.

Are there any representatives of United States Senatorial candidates present?

Mr. James Weaver, candidate for Congress in the Fourth District.

Mr. WEAVER. Thank you, Mr. Chairman.

I am Jim Weaver of Eugene, Democratic candidate for U.S. Representative from the Fourth District.

I strongly urge maintaining the French Pete Valley in its natural state. It is unique, irreplaceable, and is of greater value to all of us as a natural forest than any other use.

I support Senate Bill 866 introduced by Oregon's Junior Senator. This bill must have the support of the Congressman from this district, the district in which French Pete is situated, in order to assure passage in the House as well as in the Senate. The incumbent Congressman from this district does not support this bill. He supports the Forest Service's plan for logging French Pete. It is essential, therefore, that a Democrat be elected from the Fourth District this fall in order to save French Pete.

If I am that Democrat, I will introduce the companion bill to Senate Bill 866 in the House and work diligently to obtain its passage.

I also will appear before all of the Senate Committee hearings on SB 866 in Washington, D.C., on May 25 to assure that committee that if I am elected Congressman from the Fourth District, they will receive support for this bill.

The major criticism of the "Save French Pete" movement has been to the effect that the log supply will be seriously diminished if French Pete is not put under commercial logging. This, it is feared, means the loss of jobs. I urge the timber industry to take a deeper look. If timber interests truly fear the loss of jobs, they should take the lead in banning all log exports. We export to Japan each year from the Pacific Northwest the allowable cut of 300 French Pete Greeks. Mr. Chairman, this is an astounding figure. We export 300 French Pete Greeks each year from the Pacific Northwest.

It appears paradoxical that it is the very timber interests who are pressing the logging of French Pete, who oppose most strenuously any limits on log exports. This leads to the only conclusion possible, that it is not jobs they are concerned with, but profits, the faster profits the better.

I urge the timber industry to stop, to cease opposing the preservation of French Pete, and instead put their efforts behind a bill to totally ban log exports. I will tell you that the workers in the timber industry, who I meet day after day, will ask the question, why am I supporting the Save the French Pete Movement when I am supposedly out representing them and their job interests? I say to the workers in the timber industry that have a genuine concern for their jobs, our real fight here in Oregon to save jobs shcuid not be pointed at French Pete but at those large timber interests who log for export, and who log whole communities and who desert them.

Now, I am presently waging a battle in the community of Powers, Oregon, a small community south of Coos Bay. Georgia-Pacific went in there about twelve years ago and bought out a huge timber holding from the Coos Bay Lumber Company. This timber holding was so large it could have been on sustained yield cutting, on a sustained yield basis, and kept the community alive and preserved much of the scenic value around the Powers area. Instead, Georgia-Pacific, as typical with that corporation, logged out the entire timber holding in a decade and is now deserting the community of Powers. The mill is closed and 150 people were put out of work, and they are now in the process of abandoning the railroads, the small railroad, to Powers, and we are fighting this.

We are trying to point out that the real threat to jobs is rapacious timber interests such as Georgia-Pacific far more than any wilderness area or any Save French Pete area ever will be. If we can get this message to the working people and all the people in Oregon, we can truly and effectively get legislation to preserve such areas as French Pete Creek. We can have both jobs and beautiful environment.

Thank you, Mr. Chairman.

Mr. BARRY. Thank you, Mr. Weaver.

The next witness will be Mr. Pete Sorenson.

Mr. PETE SORENSON. I have a brief statement to read on behalf of the University of Oregon Survival Center.

My name is Peter Sorenson and I am here representing the Survival Center which is a branch of the Associated Students of the University of Oregon. As a matter of record, I am a junior majoring in geography and I have been a resident of the Fourth Congressional District since 1960.

The Survival Center has held to the position that, because virgin forest areas are becoming a rare natural beauty resource, it was in the national interest to preserve as many virgin areas as possible. For this reason, and a love for the wilderness in nature, we have fought to preserve the French Pete Valley area. Our original position was to make the area in question a wilderness area, but we have shown our willingness to compromise by accepting the provisions of Senator Robert Packwood's Bill S. 866. As we understand that bill, French Pete Valley would be not under the general management practices of the Willamette National Forest, but, would be a recreation area.

There is certainly no need, from our point of view, to justify the need to keep this piece of land out of the hands of the logging interests. These logging interests are behind the move to keep French Pete in a potentially logged area. It is time that the citizens got some input on the management of their land, instead of the logging interests. The Center has coordinated rallys, letter writing campaigns and petition campaigns to help save the French Pete area from chain saws. We have printed fact sheets and tried to educate not only the students at the University, but also the citizens of Eugene. Theoretically, if the government was doing its job, we would have to exist.

During the entire French Pete Valley fight, we have learned that Washington, D.C. is farther from Eugene, Oregon than the mere 3,000 miles separating the two points. Many of the students working with us on the effort to save French Pete have become disillusioned with the workings of government. Even though our senior senator is a member of the United States Senate Committee on Interior and Insular Affairs, there were no field hearings on the French Pete Bill.

It is our hope that the Committee will take this testimony back to Washington, D.C., and present the view of the majority of the University of Oregon students: save French Pete Valley through S. 866.

Thank you.

Mr. BARRY. Thank you, Mr. Sorenson.

Our next speaker is a very distinguished gentleman, who is honored in many fields. He was recently honored by the American Civil Liberties Union in Oregon for his contribution in that field. He is a distinguished journalist, who has had great experience in the area of conservation. He has written widely, and he is one of the citizens of whom we are proudest in this community, Mr. Irving Brant.

Mr. BRANT. After that introduction, I wish I was running for office.

Mr. BARRY. Any time that you would like to, we would be happy to have you.

Mr. BRANT. To repeat, my name is Irving Brant, and I live at 1575 Ferry Street, Eugene.

For several years, I was a consultant on conservation in the Roosevelt Administration. The Forest Service in its modified plan for partial preservation of the French Pete Creek Valley is about like a sawbones saying to his patient, "I am going to cut your leg off, but it is going to be done in the gentlest possible manner, you won't even know the leg is gone until you wake up." That is the way that it will be with French Creek, unless Congress steps in and says, "This must not be." No such intervention would be needed if the Forest Service truly followed the "multiple use" principle laid down by Congress in 1960. The trouble is that a bureau primarily committed to national forest commercialism is keeping close to its old practices while employing the working imposed for its reform.

Almost two years ago, in seeming response to public opinion in the Willamette Valley, the Forest Service appointed, as the new supervisor of the Willamette National Forest, a man whose career in California bespoke an enlightened outlook. Zane Smith's conduct in his new post has strengthened that impression, to the extent that he has been permitted to act on his own initiative.

But how far has that been permitted in the case of French Pete? Not by the minutest fraction of an inch. A policy initiated by his "chopem down" predecessor, modified as little as possible by a likeminded hierarchy, has been handed to Supervisor Smith as an unchangeable directive. Technically, of course, the matter had gone to the Secretary of Agriculture for final action, but it could have been recalled by the Chief Forester at any moment if he chose, since the Secretary's only function was to support over overrule a Forest Service decision.

The appointment of Supervisor Smith ought to have meant a new beginning, a fresh study, the chance of an altered outlook, on the disposition of the French Pete Valley. Nothing of the sort has been permitted.

Under the modified plan concocted in Portland and Washington, a partial degree of preservation will be given to a portion of French Pete Creek Valley—until the time comes to expand the commercialization. Even before that time, under the system of half-protection, the unspoiled natural characteristics of the valley will be destroyed forever.

Half a century ago there were 270 "French Petes" in the Cascades—long roadless forested valleys reaching from Alpine heights down to levels accessible to ordinary hikers. Today just one such accessible roadless valley is left in the central area. (One other off Mount Hood.) And that one relic of forest grandeur is doomed.

Apparently the Forest Service construed multiple use as a command for lumbering, and consequently for roads, in every locality that includes accessible timber of commercial size. Truly understood, the concept implies differing uses for different areas within each national forest. That includes scenic preservation.

The French Pete Creek Valley is the last remaining region in the Central Oregon Cascades where a pristine forest of mighty trees, once universal, can be preserved in its natural state within reach of the able-bodied population—men and women, boys and girls—from four years up to eighty, traveling on their own legs at any time of year. It must not be sacrificed to saw and ax, nor to bulldozers.

Make no mistake about it—roads in French Pete Creek Valley spell ruination. Road sites in that valley, the Forest Service has said officially, are unstable; therefore roads must go down to bed rock. That means vast mountainside excavations at every turn of a twisting highway. Roads will utterly wipe out the natural beauty of this last untouched work of nature.

Two years ago the Forest Service regional office at Missoula, Montana, was subjected to the stormiest assault in Forest Service history, chiefly over malpractices in the Bitterroot National Forest. The attack was spearheaded by Senator Lee Metcalf of Montana, with the cooperation of the Montana University School of Forestry. The Forest Service high command changed front completely. The once benighted regional office at Missoula is now receiving plaudits of its former critics.

It is my belief that if Senator Mark Hatfield and the Oregon House delegation—especially Congressman Dellenback—would throw themselves into the fight for Senator Packwood's French Pete Bill, they could not only put that bill through Congress, but also work a corresponding reform in the antediluvian outlook and policies of the regional office at Portland.

Thank you.

Mr. BARRY. Thank you very much, Mr. Brant.

Mr. Jon Kemp, President of the Friends of the Three Sisters.

Mr. KEMP. Thank you, Mr Chairman.

My name is Jon Kemp. I reside in Eugene, Oregon and I am speaking on behalf of the Friends of the Three Sisters Wilderness, Inc. We are a non-profit corporation and we were established in 1954, supported entirely by dues and donations and served by persons receiving no remuneration.

The organization was formed in order to present the Forest Service the opinions of concerned citizens regarding the withdrawal of 53,000 acres including the French Pete Valley from the Three Sisters Primitive Area. This was about 18 years ago which perhaps makes us one of the oldest organizations in the area that might be called a Save French Pete group. All 53,000 acres of this area were designated to be managed under Multiple Use guide lines with the added assurance that special care would be exercised to preserve recreational and scenic values and to protect wildlife habitat and water quality. A few small areas were set aside as special purpose areas. Other than these small concessions the Forest Service has not honored these promises.

Our bylaws enjoin us to preserve and protect the Three Sisters Wilderness and adjacent wild areas. One method of achieving this goal is to provide semiwilderness areas for those now using the Wilderness who actually prefer conveniences such as fire places, tables, shelters and privies, which cannot be provided in an area managed under the Wilderness Act. This concept of semiwilderness was proposed in 1968 by the Pacific Northwest Forest and Range Experiment Station. In their Report No. PUW–61 entitled "Wilderness Users in the Pacific Northwest: Their Characteristics, Values and Management Preferences", "the rapid increase in Wilderness use" is noted and that "a great percentage of the users will not be seeking Wilderness in the pure and precise sense defined in the Wilderness Act. This may indicate a need for additional back-country recreation areas that could be managed as semiwilderness." Forest Service Administration has ignored this report and insisted that most undeveloped forest land, including French Pete, be managed for the production of commercial timber. The recent survey of undeveloped land conducted by the Forest Service has revealed that very little land is still available for semiwilderness classification. We have recommended that the Willamette and Deschutes Forest Supervisors carefully consider the recreational potential of those undeveloped areas adjacent to the Three Sisters Wilderness and to classify them as semiwilderness. If this is true of the areas adjacent to this wilderness area it is probably true of areas adjacent to Wilderness areas across the Nation.

Since the Forest Service Administration personnel appear reluctant to classify any land as semiwilderness, (back-country seems to be the best they can do and they don't really classify what that means) it is imperative that Senator Packwood's bill S. 866, a bill to establish the French Pete Creek Intermediate Recreation Area in which there would be no road construction or timber harvest activities of any kind be favorably recommended for Senate Debate by the Senate Committee on Interior and Insular Affairs and that the bill be approved by the Senate.

Mr. BARRY. Thank you Mr. Kemp.

The next witness will be Claire Trotter.

Mrs. TROTTER. I am Claire Trotter of Eugene, Oregon.

I believe there is a great need for the kind of wilderness that French Pete offers that will be lost if the Forest Service is allowed to carry out its proposals.

This is one of the three remaining valleys 10 miles or more in length in the Oregon Cascades that is still in its natural state, is easily accessible and can offer what none of the others can now give. Other valleys have been harvested, roaded, managed in what seem not to be short term objectives.

French Pete is also important in its natural state as a resource for people in various disciplines, biology and others to carry out their studies. We are not so far along with all our knowhow that we have all the answers. Man has a devastating way of making his impact felt on any area he enters.

I believe French Pete is unique in what it can offer us as an unspoiled valley, 40 miles from Eugene and accessible, in part, for the larger part of the year.

Edith Green's bill H.R. 5212 and Senator Packwood's bill S. 866 both recognize the need to protect French Pete.

I am deeply concerned with the impact that Forest Service management has had on our forests—the change in soil is just now being recognized, the silting and clogging of streams and rivers—the ecological balance that has been largely ignored because timber harvest has had first priority.

I think now the priorities must be reversed—nature and man's deeper needs recognized—and made first priority.

Mr. BARRY. Thank you very much, Mrs. Trotter.

The next witness will be Fred Keppel.

Mr. KEPPEL. My name is Fred Keppel. I am 57 years old and I am a Consulting Mechanical Engineer registered in Oregon and Nebraska. I have been a property owner and resident of Springfield for 15 years. I am a lifetime registered Republican.

I want to endorse S. 866 in its entirety and particularly to prevent any logging whatsoever in French Pete Valley at any time.

I further find it impossible to believe that the Oregon (or National) Forest Products Industry is in such shape that it will be even trivially injured by unavailability of this tiny, last bit of virgin low altitude Douglas Fir Forest. If I am in error, and indeed the industry is in such tragic condition, then it will collapse very soon anyway. This irreplaceable natural and human resource should not be destroyed to try to help an industry that is either grossly and mendaciously exaggerating its needs, or, if accurate and truthful, is past hope anyway. Either way permission for any logging—ever—in French Pete seems inexcusable.

Thank you.

Mr. BARRY. Thank you, very much.

The next witness will be Mr. John H. Bigelow.

Mr. BIGELOW. Mr. Chairman, ladies and gentleman, I am an interested citizen of the McKenzie Valley; and I think the standpoint of those of us who live on the river are as important to this as anyone else. I have lived there since 1926. When I went up there as a child, it was a beautiful wilderness, gravel roads, clear streams, and the Forest Service in those days had their headquarters up there also, but they were maintaining

trails. They were always welcomed and an honored member of the community. Then they came along with the idea of harvesting the dead trees, of salvaging, and they submitted this rather harmless looking appeal. "Here's these dead trees; let's cut them and save them." Use the timber. Everyone agreed; no one likes to see anything go to waste.

So, the timber industry went in and started cutting timber. Gradually, they started cutting all timber and finally timber became a crop, and they felt they were obligated to cut the timber. The Forest Service finally became oriented to where they had to cut timber, and the entire industry became oriented toward cutting timber. This indication of the timber industry toward cutting is becoming a rather frightening thing to we people who live up there. We are seeing our clear streams turn into turbulent, mud choked unsightly messes. It is rather a thing that is appalling. I can remember when this sort of thing never happened. We never saw the McKenzie like this before, but to see it today is something that is very hard to accept.

So, as a long time citizen of the valley near the French Pete area, I warn the people of what is coming, because I have seen it in the past, and I am frightened of what is going to happen in the future. We must preserve it as a primitive area, like the French Pete area, and I am all for Bob Packwood's bill.

There are other things here, too; I don't believe that logging is compatible with recreation, as a potential. Once the timber is cut, the loss is forever; and this makes a mockery out of the multiple use program. I thank you.

Mr. BARRY. Mr. Bigelow, I see that you live at McKenzie Bridge, Oregon; is that right?

Mr. BIGELOW. I live above it about five miles.

Mr. BARRY. I note when I was looking at a map the other day the quadrangle map of which French Pete is called the McKenzie Bridge quadrangle, I think; is that correct, the U.S. Geological Survey Map? You say, you have lived up in that area for how long?

Mr. BIGELOW. Since 1926.

Mr. BARRY. 1926?

Mr. BIGELOW. Yes sir.

Mr. BARRY. And you probably saw it when the fishing was good all the time in all the streams?

Mr. BIGELOW. Yes; I am probably one of the few living citizens of that area who can still bear witness as to what it was in the past. It was indeed beautiful.

Mr. BARRY. Thank you very, very much for your testimony, Mr. Bigelow.

Any person who desires to testify should register at one of the tables outside before you speak.

Mr. Holway R. Jones is the next speaker. Mr. Jones represents the Save French Pete Committee. Mr. Jones, do you have a written statement?

Mr. JONES. I am sorry, Mr. Chairman, I do not. I did not have a chance to write one out. I have some notes.

My name is Holway R. Jones; I have been a resident of Eugene since 1963. I have been very much interested in conservation since my college days. I have been a member of a number of conservation organizations, and at the moment have the hat of the chairman of the Pacific Northwest Chapter of the Sierra Club, although I am not officially speaking for that here today.

The Save French Pete Committee, which I am representing at the moment was formed in December of 1967, at the time that the Willamette National Forest recommended the first series of timber sales in French Pete Valley. We were alarmed by this, and I remember a very dark, rainy night when a group of citizens in this community as well as some other towns nearby met at Dr. Richard Noyes' home. At that time we formed the Save French Pete Committee with the purpose of preventing roading, logging in this, what we have come to regard as an unique valley on the western Cascades of Oregon.

I am only sorry that Dr. Noyes is not with us today; he could make a very elegant plea for this valley. As most of you know, he is on sabbatical leave from the University over in London. We are flying him from London to Washington, D.C., for the May 25 official hearing on French Pete, so we will be well represented at that hearing in Washington.

I would like to pay tribute for a moment to Mr. Zane Smith. You know we have come a very long way in this battle since we started in 1967. In fact, it goes much further back than that; it goes clear back to the beginning of the 1950's when the Forest Service chose to announce a reclassification of the Three Sisters Primitive Area. Some people who had been residents of this area much longer than I will remember that day hearing in 1957.

It is fascinating to go back and read the record of that hearing. If anyone wishes to do so, there is a copy in the University of Oregon Library. I would recommend that you do so. As a matter of count, forty-nine of seventy-nine witnesses at that hearing recommended either the entire 53,000 acres, which includes most of French Pete to be retained as part of the Three Sisters Wilderness, or they recommended a revised boundary which would have been on the Horse Creek in the Pasture Mountain area.

This is why we are in this battle today, because we feel we need to preserve, if we possibly can, from roading or logging, the last bit and remnants of those 53,000 acres.

I say I want to pay tribute to Mr. Smith, and I do, because we have come such a long way from that original plan of 1968. You did not see the original Forest Service plan on the screen; Mr. Smith did not show this. The original plan called for a road, for example, that would have gone all the way through the valley including the lower four or five miles. It would have included at least eleven clear cut sale units in the center of the valley with a considerable amount of roading, something more than twelve miles of roading in the valley.

It did not provide in the original plan for what the Forest Service calls water influence zones, not even on the upper part of French Pete Creek, which you see in the revised plan. I mention this just to illustrate just how far we have moved. We have moved because citizens, such as those who are gathered in this room today, made impact upon Forest Service planning.

I only wish that Mr. Smith had been here ten years previous; we probably would have had somewhat different management of this National Forest than we have had in the past. In spite of this, however, we are still not satisfied with what, I think, some people have called a compromise solution in French Pete.

I would like to cover here without too long a time some of the modification points that Mr. Smith mentioned and showed up here on the screen. I also would like to introduce, Mr. Chairman, if I may into the record some exhibits. One exhibit that I would like to introduce is the advertisement which was run by Save French Pete Committee in the Register-Guard November 15, 1971. This ad was run and paid for through the dimes and nickels and fifteen cents' that citizens of this community were able to raise. It costs a lot of money to run an ad like this in the Register-Guard, something around $500. I think this is one indication of the sincerity of the people in this community who want to save this valley. Now, I would like to introduce this into the record, because I think it expresses very well what Save French Pete Committee's position is on each of the six modifications which Mr. Smith mentioned and showed in the back of the room.

There isn't time here to go through each of these modifications, but I would like to make two points about them. You will remember there was a lower valley area and also the slopes in the south part of the valley, which are not to be cut until technology improves in some way so that we can cut them.

Obviously, the Save French Pete Committee is not in favor of that kind of modification. After all, someday we are going to have technology to allow us to go in there. Who is to say exactly what that technology will be. Technology moves extremely rapidly in our world as we know, and I have held out that we would find a way sometime, probably, to go in there and do some cutting. Therefore, we oppose that kind of modification. In the upper plateau area, the June 1969 plan of the Forest Service, it was stated that, that area would be managed essentially as back country. In the modified plan of the Secretary of Agriculture of October 14, 1971, that back country notion is done away with and the term, "dispersed recreation" is used, whatever that may mean. At any rate some logging, salvage logging and what have you, would be allowed in that upper plateau area. We are also opposed to this.

Now, another thing I think needs clarification is this whole question of the intermediate recreation area concept as it is set forth in Senator Packwood's bill, S-866, and wilderness. We are going to hear quite a bit today I think about the notion that perhaps part of French Pete or perhaps all of French Pete should be added to the Three Sisters Wilderness rather than in an intermediate recreation area concept.

I would like to point out that the Wilderness Act, itself, has a number of things to say about this notion of recreation. The Forest Service has a group of interpretations of the Wilderness Act, with which many conservationists do not agree; and I am one of those. I believe the Forest Service has gone overboard to interpret the provisions of the Wilderness Act in a very strict manner. You will note, for example, in the recent Roadless Inventory meetings which the Willamette National Forest has held—I am sure that some of you attended those—that the great point was made that Wilderness is not really for recreation. I disagree with this; I think that recreation has many different kinds of facets. I agree it is not for the mass kind of recreation that we see.

Let me point out in the Wilderness Act in the very first section, Section II, it says, "And these shall be administered for the use and enjoyment of the American people." Now, my definition is that enjoyment means recreation, and I think that most people would agree with that. If we go further on in the Act, in Section II–C, we have (2) "Wilderness as a place for solitude or primitive and unconfined type of recreation." There is that word recreation again.

If we go further on in the Act, over in Section III–D, we see this phrase, "Wilderness shall be devoted to the public purposes of recreation, scientific, educational, conservation and historical use."

In section C, we have some prohibitions to certain uses and we have some exceptions. It says, "Except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act, including measures required in emergencies involving the health and safety of persons." This is one of the sections of the Wilderness Act that I think we get hung up on. We get hung up because one agency of our Federal Government is interpreting this Congressional Act and saying, "Well, you can't build toilets in the wilderness, you can't put certain kinds of things in." I say that this is rubbish. This Act allows the Forest Service as the administrative agency to put in facilities to protect the wilderness and the water qual-

ity. If they have to put in a Wallowa type toilet, for example, in the wilderness, there is nothing in this Act, which says that they cannot do this.

My only point in bringing some of this up is, because there is quite a bit of discussion about what we can and cannot do in wilderness areas and what we can and cannot do in intermediate recreation areas.

Now, I would like to come to some modifications, if I may, on S–866. The Save French Pete Committee certainly wholeheartedly does support SB–866. There is no question but this is a good bill. We would, however, like to make some suggestions to be considered hopefully by the Senate Committee when it has its hearing, and I would like to introduce as another exhibit to this hearing, Exhibit B which I will leave with you, which is a map, which happens to be taken from the base map of the Blue River Ranger District. On this map we have colored certain areas. One of our concerns in the Save French Pete Committee is not just French Pete; this is extremely important, but we are concerned about some of the peripheral lands which are still roadless and underdeveloped. We would like to recommend to the Senate Committee that they consider the possibility of adding the area that I have in red on the map, which includes Mosquito "Triangle", approximately 3500 acres immediately adjacent to the Three Sisters Wilderness and between the wilderness and the French Pete drainage; that this area along with, perhaps, as much as 4000 acres of the upper part of French Pete, that this area be considered for addition to the Three Sisters Wilderness. This would represent a modification in Senate Bill 866.

We should also like to recommend that the peripheral areas which are now roadless and undeveloped, including Walker Creek, approximately 9900 acres, and the upper Rebel Creek area, approximately 8600 acres, be added to the French Pete lower and middle areas valleys, which would then make an intermediate recreation area concept of something in the order of thirty-one or thirty-two thousand acres.

We definitely believe that all of these lands deserve the protection of Senate Bill 866, or some modified version thereof. That is the reason I would like, Mr. Chairman, if I may introduce this map as an official exhibit for the record.

One final thing I would like to comment on, and that is, when we come to determining the boundaries, if it comes to that, as to the upper area it is going to be a little difficult. One of the reasons for suggesting that the upper plateau area of French Pete and Mosquito Creek be added to the wilderness is that I believe it would give us a more viable boundary for the wilderness. It is a marginal timber area; it is an area that obviously was once in a primitive area, and I feel that it would be better served as a part of the wilderness, itself.

I would also like to introduce into the record one other exhibit, Exhibit C; this is a copy of a report done by the Save French Pete Committee dated June 10, 1969, titled, "Request for Review of Decision of February 6, 1957 by Secretary of Agriculture concerning land classification in the Willamette National Forest."

My reason for wanting to introduce this into the record is that I think this document is a very important document for the Senate Committee members to see. This document sets forth the reason why the French Pete Committee feels and still feels today that, that Secretary of Agriculture decision of 1957, which lopped off the 53,000 acres from the west side of the Three Sisters Wilderness, at the same time it established Diamond Peak in Washington Wilderness Areas, also set the management direction, presumably, for that 53,000 acres, under which the Forest Service has provided us with several multiple use plans.

This report sets forth the reasons why we think that Secretary's decision should have been changed. As some of you may know, I was privileged to be in Washington, D.C., in July of 1969, with Mr. and Mrs. Noyes to present our reasons why we felt that decision should be changed. The Secretary chose not to agree with us, and, of course, he issued his decision in October of 1971, under which the present supervisor is obliged to go along with some kind of renewed management planning.

We still think, though, that our reasons are valid, and we would like the Congressional Committee to see what our reasons are; and that is the reason I would like to introduce this into the record, Mr. Chairman.

One final thing that I would like to speak about, one of the objections that we frequently hear is that French Pete would be a delightful spot to practice multiple-usemanship. You know, the kind of place where you can put in your regular uses, clearcut, perhaps, and still have recreation and what have you.

This is great, but for God's sake, but let's not do it in French Pete. It is to unique, too precious a place to try to practice what might be a mistake. I would suggest that if the Forest Service really wants to do this kind of thing, that they find some other area on the forest, Packard Creek, for example, would be a good one, as far as I am concerned, a 6000 acre drainage with which they could practice some of this multiple-usemanship, and really show, perhaps, if they can what it is like to have logging and recreation of the type we are talking about; but let's not do it in French Pete. Thank you very much.

Mr. BARRY. Mr. Jones, before you get away, we don't want you to escape because of your resource, last year, this year actually, last term I had a student who undertook to study the Hetch-Hetchy problem. The Hetch-Hetchy Valley in California is larger than the French Pete Area, but it has many similarities in the sense of the zeal of the people who are fighting to preserve it. I note that you wrote the definitive history of that fight in your book, *John Muir and the Sierra Club*.

Mr. JONES. That is right.

Mr. BARRY. Do you see any parallel between these two controversies, do you have any expectations that this one will come out better than that one did?

Mr. JONES. Well, I can say that there is a parallel, I think there are parallels in all of these resource battles of this kind that we are fighting; true, Hetch-Hetchy was over power development and water reservoir for the City of San Francisco rather than over timber cutting. But there are similarities in all of these battles, I think; the important thing is the reason why we are able to save many of the beautiful spots in America, the National Parks, and what have you, is because the grass roots citizens like we see in this room right now, like the people who join the Sierra Club and many other organizations that we have, who are willing to devote hours and hours of their time without any compensation whatsoever. For this reason, I think there are similarities in these battles. I certainly not for a moment hope that the French Pete goes the way the Hetch-Hetchy did.

Mr. BARRY. Thank you very much. Any questions? (No response) The next witness will be Mr. Steve McCarthy, of Portland, Oregon.

Mr. MCCARTHY. Thank you; first I have to say, I think I should say that the reason I am here is because I was associated with a law firm who was co-counsel in the French Pete case, but I am not representing any organization with which I am affiliated now. (See Exhibit #10.) Thank you.

French Pete is a special case and that is why we are all here. The Forest Service, I think, has taken the position on this and other issues, that we are treating it too much as a special case by asking that there be special legislation. I know many very responsible legislators who support something about saving French Pete, but they are not supporting the special legislation, in other words, making administrative land decision by special legislation. I think that is one of the real problems about this bill and I anticipate that will be one of the obstacles to it being passed.

French Pete is unique and that is really a good argument for making it a special case. Its uniqueness is a quality that I am sure that other witnesses have talked about. If you look at the early record of the Forest Service and the interest in French Pete, that its uniqueness was never recognized. It was never taken into consideration and it was never even discussed. In fact, not even really denied, prior to the final environmental impact statement. We should say that Zane Smith has recognized some of the uniqueness, but it is still going to be logged. So I would like to look at the way the Forest Service handled the initial decisions about French Pete and maybe arguments that it does deserve special treatment. In other words, if the Forest Service is going to handle French Pete in the way that they did initially, then there comes a time when the management and their competence is questioned and it has to be taken to the legislature essentially to take it away from the Forest Service and have some special guidelines set up.

They drafted the Multiple Use Plan for French Pete and let's take a look at the plan, as it was done by the Forest Service in 1969 and see what it says and see what they would have done if they hadn't been interrupted and what they might still do if the management isn't taken away from them.

Does the Multiple Use Plan make any real concessions to recreation or other non-timber uses? The answer is no from those plans.

According to page 40, the first multiple use plan was issued in 1969 and it says, ". . . skillful design of harvesting areas and the use of proper equipment should permit these areas to contribute their full allowable timber harvest."

In other words, at the time this plan was drafted, there were no concessions made regarding the uniqueness of the valley to cut down on the amount of timber that they might take out.

The Forest Service is saying that they are going to get the same amount of timber out of French Pete as if they logged it like any other valley.

What does the Management Plan say about clear-cutting? This is the Management Plan that we appealed and the Management Plan that the Secretary of Agriculture upheld, but maybe not the same thing that Zane Smith is going to do now.

What does the Management Plan say about clearcutting? The plan permits clearcutting throughout a great portion of the French Pete Valley. There is no meaningful regulation of clearcutting. The Plan states that "an attempt" will be made to hold the size of clearcuts under 35 acres (30 acres in a modified plan.) "Units that exceed 35 acres will be thoroughly justified". This is in a unique valley and the Forest Service says that clearcuts over 35 acres will be thoroughly justified. Do these statements have any real protection for aesthetic or other non-timber values? What is "thorough justification"? Who is going to be making the justification?

On page 22 of the First Management Plan it is stated: "Streamside strips of standing timber will usually *not* be left when such strips will not be accessible for management in the future". In other words, if they can't get in to cut it later, they are going to cut

it all right now including down to and across the streams.

What about the lands up in the high parts of French Pete, the lands with predominate scenic values? This is what the Plan says: "All lands in the high meadow units that are not open grassy meadows, alder patches, rock slides, or snow avalanch paths will be managed for the optimum sustained production of timber products". In other words, whenever there are timber trees, management is for timber, for optimum sustained production. The stand will be intensively managed. This is not down in the Douglas Fir area in the lower valley, this is up in the higher meadows.

Even in these high meadow areas, clear-cuts will be allowed. The plan states that clear-cuts will not exceed 15 acres "unless necessary because of the topography or the need for salvage." So, again, even in the high meadows, they will be permitted clear-cuts. This is that it will permit clear-cuts and they could exceed 15 acres, if they were necessary for topography need for salvage. This is predominantly a logging criteria. What could you add to the definition of the process of deciding whether something was necessary because of the topography for salvage that would not be an economic or timber management criteria. Can you put a recreational criteria in there? I don't think you can the way that is written.

Does the Management Plan provide any other protection for high mountain meadows? Again the answer is no. On page 26 of the First Management Plan is the following quotation: "Meadows will be managed with recreation as the key use. Timber harvesting in adjacent areas will be done in such a way that recreation use is not impaired.

What does this mean? A first reading says that recreation is a key use. But the next sentence says that we are going to harvest the timber but we will try to do it in such a way that recreation is not impaired. Anyone who seriously believes the timber harvesting can be done next to a mountain meadow in such a way that "recreation use is not impaired" either does not know the Forest Service, or logging practices or has never been to a mountain meadow or both.

What about the location of roads? On page 26 of the First Management Plan it is stated: "Road locations will be planned to avoid meadows. Logging or heavy equipment will not be allowed to enter except where authorized for a specific purpose." You know, these guys wrote this and I think they were serious, in fact, I know they were serious. If the timber is on the other side of the meadow, they will be authorized to go in and get them. This is up in the meadows, too, up in the lands around the upper part of the valley by other criteria are the most valuable for recreation.

What about recreation planning. Let's look at what they say in the plan. Some examples:
(a) These units will be managed to maintain a near-natural appearance.

(b) Transportation planning will limit road construction within these units to that amount for which there is no other reasonable alternative.

(c) These strips (300 foot buffer between meadows and logged areas) will be selectively cut to maintain a thrifty timber stand. Roads will be subject to the set-back unless unacceptable damage to other resources would result.

What does all that mean? What it means is that they can log and will log in the so-called buffer zones between roads and meadows and clear-cuts. 300 feet is okay for the speeding motorist but not much good for anyone that is walking or even driving slowly. These are extremely small buffers and then they are going to log it too.

Some of the Forest Service reasoning borders on fantasy. They are talking about clear-cutting, for example. "Clear cutting will be allowed when justified as the most practical method." The only yardstick against which the criteria is practical is for the requirements of logging timber. There is no way that clear-cut can be judged practical on the basis of scenic or other recreational criteria.

Against the Forest Service doctrine is that "timber sales in this unit will be designed so that treatments blend with, rather than detract from the scene as viewed from the visitor attractions". In other words, they believe, and I don't know if they do anymore or not, that they can make clear-cuts in the last large low-altitude Douglas Fir valley in the State of Oregon and that it will not detract from the qualities of that valley.

These are some examples of what—admittedly is now apparently no longer what is exactly going to be done in French Pete, but it was the Management Plan that was upheld by the Secretary of Agriculture as an example of what the Forest Service has done in the past and perhaps will do in the future to this valley. I think that this is the best argument for the fact that we have to take it away from them. We have to say that French Pete is special enough and you haven't demonstrated to us in the past that you are going to take proper care of it. We are going to have to take it away from you through special legislation.

Thank you

Mr. BARRY. Just for the information of the record I think I should point out that Mr. Steve McCarthy, who has just testified, is a lawyer who practices in Portland, Oregon. He is now the Executive Director of the 50,000-member Oregon Student Public Interest Research Group. Thank you, again, Mr. McCarthy.

Are there any questions?

Reverend PETERS. Your testimony has been based primarily on a management plan, which apparently is not the current management plan. I wonder, and it may be useful just for the record if you could give us a reflection on the modifications that are before us. I don't know if you heard Mr. Smith testify this morning, but apparently there have been modifications in the logging plan. Could you just bring us up to date as to your views of those changes?

Mr. MCCARTHY. I have had a couple of informal sessions with Zane Smith about what he wants to do. The first one was right after the Secretary of Agriculture's decision where we asked him essentially, "What are you going to do? The original management plan was upheld, what are you going to do?" At that time he went into some length to explain to us that he no longer took the original management plan as his guide. In other words, he didn't feel that he was bound by it; he felt that he was bound by the impact statement and some specific guidelines in the Secretary's decision.

Since that time I guess I have talked to him about what he is going to do and recently I heard from Holway about some of his plans through 1975, which indicates that a fairly substantial amount of recreation, I don't think the point is changed; I think, for example, obviously the new plan is inadequate, at least, to change the basic premise that at least a substantial part of French Pete should be managed for timber production.

I can't see any compromise on our position on that. It is an absurd example of land planning to take a resource that is unique like French Pete and use it in the same way they have used every other valley. I think his ideas are tremendous, but they should be applied, as Holway Jones says, in any of fifteen of twenty other valleys that are going to be devastated if this kind of a plan is applied to it.

The point that I was trying to make is this is an example of what would have happened and what may still happen in other areas, what may still happen to an extent in French Pete, if the land management is left to their administrative discretion.

We have got to take it away from them, at least in this case.

Dr. BARRY. Thank you again. Is Mr. Edward H. Vogt here? (No response) Mr. Vogt said that he had to leave at 10:15, but that he would come back. We will call his name from time to time.

The next witness is Mr. Peter Glazer.

Mr. GLAZER. I have a prepared statement.

Fellow Oregonians, legislators in Washington, my name is Peter Glazer, I am a nine-month a year resident of Eugene and a permanent resident of Portland. I have come today not to summarily criticize the Forest Service, because as with any organization or person, the Forest Service has its incompetence as well as its competence. I do not come as an expert on French Pete, or on wilderness areas or on forest management. I speak as an Oregonian highly concerned about the future livability of my state. My testimony is brief and I hope that you will bear with me should I cover ground already heard today.

My father is an architect; my dependence is upon his profession. I have no illusions about how everything would be rosy if we left all the trees standing and built only with concrete. In fact I much appreciate wood in building; it brings a quality of life to otherwise sterile constructions. But I also enjoy the beauty of a virgin forest; of an area devoid of construction. While I observe this state becoming one of second home development and growing suburbs, I relate to two questions.

The first is whether or not wilderness is necessary to the high quality of life in Oregon. I answer yes, that it most certainly is. I think of the two children that I plan to have, and I wish that they could see the beautiful state of our state today. I fear instead that they will see a land similar to present day southern California. I fear that they will grow in a sprawled and paved Oregon. Such a fate is not deserving of any Oregonian.

My second question is of the claim, made by many, that we need to cut our wilderness areas to build the necessary homes for America's poor. I see it as fallacious. Instead I see it in quite the opposite light. The trees that are being cut today are not being cut to build the homes we so desperately need for America's underprivileged. The trees we cut today are being used to build second homes for the affluent, and suburban boxes for the middle class. If indeed the argument is used that wilderness areas benefit only the affluent, I ask who benefits from second homes at the beach or mountain, or from suburban tracts. Not the poor.

The final point I would like to speak to this morning is raised as a question to all of us, particularly the forest industry. The question I ask relates to many aspects of management of Oregon's forests. It is a highly important question, and I suspect many Oregonians are disturbed about it. I ask then, when jobs are at a premium, and timber is most certainly at a premium, are we, as Oregonians, exporting hundreds of French Pete Valleys across the Pacific each year? Why are we not wisely utilizing our precious resources here in Oregon and in America? It seems ridiculous to contend that environmentalists are to blame for job reductions. It quite plainly seems that the culprits are not crazy environmentalists, but those who seek to profit by exporting our logs out of Oregon to the Japanese.

Finally, I pledge to members of the Forest Service, and the forest industry, that I will maintain an open mind with regard to charges against them and by them. My concern is not in labeling foresters wrong, or

environmentalists crazy . . . it is with maintaining Oregon as a state where people can earn a good living, enjoy a profitable leisure, and live with an eye to the future. The closing of my remarks is with seven important words . . . Consider Your Inheritance and Save French Pete.

Mr. BARRY. Thank you very, very much.

Mr. James A. Baker. Mr. Baker is from Finn Rock, Oregon. If I remember correctly, that is on the Willamette River.

Mr. BAKER. That is on the McKenzie River. I have the statement of Eleanor Woods of Blue River.

Dear Sirs: I should like to have the following statement included in the record of the hearings on Senator Packwood's Bill 866 to create an Intermediate Recreation Area on French Pete Creek in the Willamette Valley Forest, Oregon.

When I first came to the McKenzie Valley in 1955, I could walk on shady, soft trails through the old-growth Douglas Fir forest unique to the Northwest, for five days to a week directly from my cottage without meeting a soul. Many others did the same thing; there was enough forest to absorb us all. Since then three dams have been built on the McKenzie or its tributaries within the National Forest, including Cougar Dam on the South Fork, into which French Pete Creek flows. Cougar Dam alone drowned about 1400 acres of forest and idyllic creeks as well as South Fork itself up to French Pete Creek. Moreover, the 53,000 acre of old growth forest between South Fork and the present Three Sisters Wilderness were taken out of the Primitive area in 1957.

These 53,000 acres were then opened up to Multiple-Use in 1960 along with the rest of the commercial forested acreage of the National Forest. Multiple-Use has meant, in practice, that about 96 percent of the Douglas Fir Forest has been designated by the Forest Service to have timber as its Key Use as well as 67 percent of Upper Forest. This has meant that much of the Forest has been scalped in clear-cut units and that gravel roads run up every creek or ridge—except, at present French Pete Creek. It is impossible to reach trail-heads without driving miles along logging roads and clear-cuts units, and what trails are left, are segmented into short units by other roads and clear-cuts. For hikers this means a cultural shock and depression every few miles.

In the meantime, the population of the nearby Eugene-Springfield area has doubled, as well as, probably, the population along the McKenzie. Now that there is much less de facto wilderness, there are many more people seeking either wilderness or natural surroundings in the forest. Today there are 15 cars parked at the trailhead at French Pete on a Saturday before the snow is off the upper part of the valley!

French Pete Creek is an idyllic creek. The valley itself is steep and narrow. Any logging in it or roading of it would be obvious to the hiker seeking solitude or escape from the city. I urge the passage of this Bill 866 in order to save it for future generations to enjoy.

Sincerely, Eleanor Woods.

Mr. BARRY. Thank you very much, Mr. Baker.

Is there a representative of the Forest Service here now?

(No response.)

Well, the next witness will be Mr. Harold M. Dunn.

Mr. DUNN. Mr. Chairman, my name is Harold Dunn. I am perhaps unique in that I am a native born Eugenian; although for something over twenty-five years I have been living in the nearby Mohawk Valley.

When my son, Robert, completed his military service, he found employment in the San Francisco Bay area, but he comes home to Oregon for his vacations. I think it was two years ago that we went into the French Pete drainage, and we came to a spot of particular beauty, and anyone with a touch of Irish blood would immediately look for the pixies who might be hiding among the ferns in the logs, where in this little cove was a small drainage of water in the late summer time, when all else was parched and dry.

Now, there is no argument but that logging disrupts the hydrological flows and if logging is permitted in the drainage above this particular little spot I have in mind, the probability is that the flow will cease and the plants will die.

Now, the Forest Service will show us examples of green growth of vegetation where they log, but they do not show us the moss and the ferns, the sacrifice of the wild orchards, which are rather intolerant of such treatment.

I would urge the passage of Senator Packwood's bill S–866 that we may preserve this particular area, so that when my son has a family of his own, he can bring them in and have the youngsters do their own pixie hunting in this spot of beauty along the French Pete trail. Thank you.

Mr. BARRY. Thank you, Mr. Dunn. Mr. Killgallon, are you here?

Mr. KILLGALLON. Yes.

Mr. BARRY. Would you make a statement right now? We are out of witnesses right now, and they are registering some more. Your address sounds like you are a neighbor of mine.

Mr. KILLGALLON. Yes, I am. I didn't prepare a statement. I have lived in Eugene since I was born, and I am twenty-six years old. I have spent two years living up the river in the area of Blue River. It is a beautiful place and I hate to see the loggers come with their equipment, their clear cutting equipment. That is about all I have to say.

Mr. BARRY. For the record, your full name is Kerry Michael Killgallon, 1237 East 21st, Eugene, Oregon. Thank you very much, Mr. Killgallon.

Mr. Joe Walicki.

Mr. WALICKI. My name is Joe Walicki, and I live here in Eugene, Oregon. I want to go on record as an individual urging protection of French Pete.

I have been in the valley a number of times, and I was very fortunate about two weeks ago, Senator Packwood came to Eugene. Senator Packwood, Holway Jones, Zane Smith flew over the valley. They had two extra planes for the press, and one of the press planes had an empty seat, so I got in; and I flew over French Pete. I want to tell you, it was a magnificent experience. We flew right into the valley and then made a general right turn and a broad expanse of valley extending on up the wilderness area was pretty fantastic. You can probably get a pretty good view of it up on Yankee Mountain, of course, but from the plane, it was really an experience.

I would just like to say that there are many, many valleys or many, many areas in the United States, where there is great over-population—I originally come from Philadelphia, and one of the reasons I came out here was to enjoy some of these wilderness areas. What I am afraid of is that many of my friends in Philadelphia are going to come out; they are coming out and they will be coming out and once we get this quota system on many of our wilderness areas, it is very conceivable ten thousand people from Philadelphia can sign up for all the wilderness areas of Oregon, January 1, 1980, and not allow any more natives. It is very possible that these wilderness areas that we have now are going to be under tremendous pressure and continuing pressure in the near future, because the curve of individual involvement in wilderness as a recreation is going up and up and up. Sales of backpacking equipment, camping equipment is continually rising. I imagine it will taper off sometime, but it is going up and interest in wilderness is increasing; so unless we have a good increase, a large increase, in wilderness areas, we are going to be in trouble.

I think French Pete would be a perfect addition to the Three Sisters Wilderness Area if we are going to have recreation in the wilderness areas.

Mr. BARRY. Thank you, Mr. Walicki. Janet Newman.

Miss NEWMAN. I am Janet Newman; I have lived in Eugene for twenty-one years. I have visited French Pete in the snow and also in the summer. During the summer I have worked for the Parks and Recreation Department of Eugene, and I have had the opportunity to take children up there. I was rather dismayed in my initial contact with some of the children and found out that their only contact with wilderness was in a camper or on a motorbike or something like this. There are a lot of children who have never seen a wilderness area; and I would just like to see French Pete remain a wilderness area and be preserved in its natural state. I think too many times we go ahead and do things that are irreversible in the future. French Pete should be saved.

Mr. BARRY. Thank you.

We will take a five to ten minute recess at this time.

(Hearing in recess from 11:05 to 11:15 a.m.)

Mr. BARRY. I am going to turn the gavel over to Mr. Mohr. I have to be at a meeting on French Pete up at the University in a few minutes before we convene the afternoon session. Mr. Mohr.

Mr. MOHR. Thank you. Our next witness is Mrs. Elizabeth Frenkel from Corvallis. She wishes to present some oral testimony. Mrs. Frenkel.

Mrs. FRENKEL. I am very grateful for the opportunity to speak today. I would like to testify to the fact that I am one of the people who have been in the French Pete area, which is one of the few areas where a family can go comfortably, when most of the upper elevations of the area are under snow. To place this under the intermediate recreational area plan would be a most useful way of keeping that area just as it is for me and my family to go there in the winter time.

The fact is the conflict on one of the scale of wilderness obviously doesn't fit the whole concept of wilderness, the conflict on the other hand of harvesting which would destroy the effective use of the area for recreation. I do hope it will be passed out of committee favorably. Thank you.

Mr. MOHR. Thank you, Mrs. Frenkel. Are there any questions? (No response)

Robert E. Frenkel, also of Corvallis, wishes to make a statement for the record. Mr. Frenkel.

Mr. FRENKEL. (See Exhibit #18.)

Mr. Hearing Officer, ladies and gentlemen, my name is Robert E. Frenkel, 1421 N. W. Vista Place, Corvallis, Oregon. I am an Associate Professor of Geography at Oregon State University; my specialization is in ecology and natural resource conversation. I am pleased to have this opportunity to testify in Eugene today since it would be impossible for me to attend the Washington, D.C. subcommittee meeting hearing on May 25.

I wish to address two aspects of Senator Packwood's Bill, S. 866, establishing the French Pete Intermediate Recreation Area, a bill I fully support and which I urge the Parks and Recreation Subcommittee to favorably pass. One aspect relates to the quality of the area as an important scientific resource; the other concerns the need for intermediate recreation area management.

Situated at the lower margin of the Western Cascades between 2,000 feet and 5,700 feet elevation, French Pete Valley represents one of the last remaining unharvested, low elevation watersheds of comparable size in

Oregon's Cascade region. The uniqueness of this valley is, in part, an artifact of the harvest pattern which has disturbed almost all comparable west slope valleys. The geology of the watershed includes the transition between recent Pleistocene Lava flows typical of the High Cascades which are relatively undissected, and the more deeply eroded Miocene rocks with their characteristically sharp ridge pattern bordering lower French Pete Creek.

The diversity of parent material combined with almost 3,000 feet of relief; slope exposures dominantly north, south, and west; and a variety of surface terrain has led to a richness in vegetation cover. Foresters recognize two main forest types in the area; Douglas Fir and true fir mountain hemlock. Plant geographers, on the other hand, consider the areas as a valuable transition from the western hemlock zone to the subalpine forest zone where several species of true fir prevail. At least 30 loosely defined vegetation units exist in the area, including ten major forest community types within the *Tsuga heterophylla* zone reflecting variation in both moisture and temperature, possibly five forest types within the subalpine forest zone, xeric meadow, mesic meadow, wet meadow, snowbed communities, peaty melt seeps, rocky melt seeps, scree communities, talus block communities, vertical outcrop communities, lodgepole pine communities, unique quaking aspen groves, and several riparian communities. It is the mosaic of vegetation patterns including a variety of seral communities reflecting past history of vegetation development (in part the fire history) which excites plant geographers.

Hickman has studied some of the aspects of the flora occupying isolated peaks in this watershed. The relationship between the plants and communities on the peaks and ridges to those on slopes and valley bottoms is one of the problems needing further research.

The proposed Forest Service plan of integrating timber harvest with recreation would essentially destroy the opportunity for a broadly-based study of the vegetation mosaic and flora of the area as it now exists and is developing.

One might review the special management of other adjacent areas: Five Special Interest Areas are situated either within the French Pete watershed or near by. These are the Yankee Mountain Scenic Area, Lower Mountain Geological Area, Lamb Butte Scenic Area, Quaking Aspen Swamp Botanical Area, and Rebel Rock Geological Area. With the exception of the 240 acre Quaking Aspen area, all have rocky mountain top locations. Furthermore, the purpose of all of these is recreation use.

Two Research Natural Areas, Ollalie Ridge, preserving mountain meadows and their flora, and Wildcat Mountain, featuring noble fir, are all that now exist nearby in the Western Cascades. The conclusion from this enumeration is that little attempt has been made by the Forest Service to providing protection to integrated, low elevation forested landscapes. The French Pete Intermediate Recreation Area plan will provide this protection.

The U.S. Forest Service research, largely the output of Forest and Range Experiment Stations throughout the country, has elucidated the recreation desires of forest users and the management problems confronting Forest Service personnel. Thus Hendee, *et al.* (1968) point to the desires of many users for facilities and developments inimical to management of wilderness under the Wilderness Act. Lucas (1966), in a study of visitor perception of the Boundary Waters Canoe Area, demonstrates that people reflect all degrees of perception and desire in wild land use and that the Forest Service must meet this diversity of demand and perception by providing a diversity of management schemes. The Forest Service administration itself recognizes the incompatibility between heavy recreation use of wilderness and the continuance of the wilderness resource; yet, the Service has few extensive management schemes which will meet this demand. These few examples illustrate the need for an intermediate recreation area type of management which would permit considerably more intensive management and development than is possible in a wilderness area. The French Pete Bill would provide precisely this opportunity.

Once again I urge the Parks and Recreation Subcommittee of the Senate Interior and Insular Affairs Committee to pass favorably on S. 866.

Thank you.

Mr. MOHR. Thank you, Mr. Frenkel. Are there questions? Reverend Peters.

Reverend PETERS. It seems to me that the focus of your remarks would be to suggest that there is an uniqueness about this valley, that perhaps in some way its characteristics are not duplicated in any other. I wonder if you could, maybe, just for any layman who might be interested in this record, sum up what the characteristics of the unique features would be?

Mr. FRENKEL. The unique features from my view are to a certain extent the extent of the valley. The valley consists of about 19,000 acres. Almost all comparably sized valleys to my knowledge at low elevations already have been disturbed by timber harvests' operations.

So that we have a relatively undisturbed valley which offers an extensive array of habitat type of plant community which can be further used for research; this is one aspect.

The second uniqueness again relates to its integrity as a complete watershed. Here is a watershed which is fairly large, which has not been disturbed and used to study or as a control for use to understand hydrological processes and this type of knowledge. There has been this type of study in a very small way the nearby in the Andrews Experimental Forest, but not to any extent a watershed such as is available in French Pete.

Mr. MOHR. Any further question? (No response) The next witness is Mr. David Novick.

Mr. NOVICK. Mr. Chairman, as an Eugenian for thirteen of my nineteen years, I have enjoyed hiking in the French Pete area, and having seen the barren logged areas, I would urge the incorporation of the French Pete drainage into Wilderness Area on esthetic grounds. With the increasing and close to overload use of now recognized Wilderness Areas, we can ill afford to lose unrecognized but nevertheless excellent wilderness land.

The Three Sisters Wilderness Area is now in danger of overload; it is difficult to visit that area without running into many other people. Campsites developed at locations such as Green Lake are experiencing such heavy use as to make usually common firewood scarce.

Under these kind of conditions, it is apparent to me that the inclusion of the French Pete drainage is necessary not only to protect non-recognized areas from the exclusive ruin of roads and logging, but to protect non-recognized wilderness areas from the implicit ruin wrought by the tramping feet of overuse.

Once French Pete becomes subject to the transformation of multiple use planning, it will never return to its current state. And because of my analysis, the increase benefits in terms of wilderness available now far outweigh the increased benefits in terms of timber land available now. The nation must recognize the value, not tangible perhaps, but still value of unspoiled valleys, and French Pete is one of the few unique valleys still left in Oregon.

Mr. MOHR. Thank you, Mr. Novick. Catherine Landon is our next witness. Mrs. Landon says that she is a life long resident of Eugene.

Mrs. LANDON. Yes, I am a life time resident of Eugene. I was born on the banks of the Williamette River. I have watched it come up and I have watched it go down.

I enjoy hiking and I hike a great deal. I enjoy fly fishing on mountain streams. My husband has the same feelings and we like the same hobbies. Our children are grown and they and their children are all excellent hikers and fishers.

Now, we have found less and less trails and more and more hikers. We find fewer and fewer streams for kind of fishing and more and more fishermen. The trails and so many of the streams are disappearing with the logging operations. These are mud clogged, debris clogged, covered by slides, downed and dead trees, disbanded cable lines, equipment, junk, oil slicks, rust erosion, dry stream beds crossed and recrossed by cat tracks, high lines, garbage, logs, limbs and they will never flow clear water again in my lifetime, nor in your lifetime. They will only add to the ever increasing chain of public expense from the logging site to and into the ocean.

The French Pete area can still be hiked by beautiful trails, the creeks are clear and clean. It can be enjoyed all year, and from the number of vehicles in the parking areas convenient to trails it is more and more in demand.

So many have felt that we had enough wilderness areas set aside, but in the wilderness areas that I have been in, I find that there the going season is very short. There is timber, but it is stumped. Many of the trees that are often cut for boy scout projects are as much as 70 years old, and yet they are just the right size for the projects specified for boy scouts. This is something that should be curtailed. Maybe they could all use the same log and when they are through with them, reset them.

I find the trails in these other wilderness areas are worn so deep that we have to start new trails. They will never recover because the growing season is so short, they cannot recover from their heavy use.

Any degree of logging with our present methods would leave French Pete another disaster area. Its combined acreage is comparatively small for worthwhile logging. We have larger ranches, in fact, last weekend, I was on a larger potato ranch in Eastern Oregon.

It would leave another unsightly, noisy, 15 minute ride to the adjoining unsightly area and on until one wonders why we didn't stay home and watch the boob tube.

We are extremely sorry that a wilderness area was not established 30 years ago in the Coast Range. The virgin forests there at that time were beyond the imagination of our younger generations. Did you ever see a square dance on the stump of a Sequoia? It is gone and never again will it return.

I certainly hope that something is done to retain French Pete as a Wilderness area.

Mr. MOHR. Thank you.

Mr. Bernard Conklin.

Mr. CONKLIN. I have no prepared statement. I am for retaining the French Pete area as a natural wilderness. My chief reason as for that has been mentioned before by many people here, much of the Cascade region and much of Oregon has been set aside for logging and I think Oregon is one of the few states that has been able to retain its natural surroundings. I am an outdoorsman myself. I enjoy fishing, camping. I feel that most of the people who get into the natural regions are really conservationists. I, myself, have respect for the wildlife that is in there; and because of this I would like to leave it like that. From this point of view is why I am supporting it.

Mr. MOHR. Thank you very much.

Diane Meyer; Diane lives in Talent, Oregon.

Miss MEYER. I am Diane Meyer, I will submit a written statement, hopefully somewhere around the 25th, if I can. I came all the way up from Talent, Oregon, this morning. I represent the Rogue Group of the Sierra Club. We have over 150 members and over three sypathizers. We were lucky this last summer to have Holway Jones come down and show us some slides about French Pete. I was a resident of Eugene for ten years, and I think I have hiked most of the trails in French Pete many times, except for maybe one or two of them, so I know the area very well.

I was on the original French Pete Committee in 1969 when all of the problems of that original plan began. I won't go into too many details right here; I will have a written statement. I support many of the things that have been said already. I would in particular like to see French Pete a Wilderness, and I would support the bill that Packwood has used as an alternative measure. I would prefer wilderness; it is wilderness now, and I feel that it should remain that way, I got my first wilderness experiences in this kind of a lush and almost coast range type of habitat in the Cascades. When I came up from Southern Oregon this morning, it wasn't really raining like it is here. I know you get kind of depressed with all of the rain, but you know it is kind of dry down there, too. That is more open pine country. We don't have an unique French Pete habitat down there like you have here. I miss that every once in awhile. I like to come up just to go into a place like French Pete, maybe it is because I was born and raised here, but I think the people of the Pacific Northwest must realize that we have something unique here. If you cut down all of the big trees, I think what has made the Pacific Northwest what it is, will be gone.

Anyway, I do support Wilderness for French Pete.

Mr. MOHR. Thank you very much, Miss Meyer, for being with us this morning.

Is Mr. Doug Newman here?

Mr. NEWMAN. Yes. My name is Doug Newman, and I have lived in Eugene for twenty-five years. I have been going into the nearby mountains and foothills of this area all of my life. Within the last five or six years I have become involved with outdoor organizations in this area, and the growth has been phenomenal. Say, only five years ago, there were only a handful of people, it seemed to me, who were going out and participating in activities of this nature.

An organization with which I am associated, the University of Oregon Outdoors Program began at that time with perhaps a hundred people. Now, the figure is somewhat in the vicinity of 3500 people annually. At any rate the outdoors movement is growing. The Boy Scouts, the Girl Scouts, the Campfire Girls, YMCA, outdoor education programs in the schools, park and recreation departments all are growing very, very much. They need places to take their people. That is the thing I would like to bring out today; these places are shrinking. There seem to be fewer and fewer places as the years go by to go. I know I have seen it in my own short time of pursuing this activity that there are very few places in this area that aren't getting over-populated on the weekends.

The main thing about French Pete is that it is unique; it can be used year round. It is not like the geologic area, the natural area, the scenic area or any of that as any other in the vicinity. The other areas are all higher elevations. They are 4,000 feet or 5,000 feet high, which means that you can't get there all the months of the year. They are only accessible, perhaps, for four months of the year.

Another thing in the way of bearing out that we are losing these trails is the statement given by the Willamette National Forest, which describes the number of trails that were in existence in this fiscal year. They say that there are 616 miles of trails left as compared to 3,050 miles of roads. I can't see the number of trails getting very much bigger, but I can see the number of roads growing a lot.

Consequently, I would like to say that I favor Senator Packwood's Bill and I would like to see French Pete maintained in its present state. Thank you.

Mr. MOHR. Thank you very much.

Mark Soloos?

Mr. MARK SOLOOS. I am Mark Soloos and I have lived here for three years in Eugene and in the area for nine years. Once our Troop went up to French Pete and it was fantastic. Just the beauty of it was outstanding.

I have seen movies of roads being built and clear cutting and it made me curl up inside and want to do something about it. I have joined a Conservation group and tried to do something. Last month we saw a movie on the Blue River, which was a creek that was destroyed by logging and roads being built. Of course, the fish could not spawn again. They could not get back to the original place where they were born.

I am very much for saving French Pete for those of the outdoors.

Mr. MOHR. Thank you very much, Mr. Soloos.

Is there anyone else that wishes to give testimony this morning in this session?

(No response.)

This hearing will continue again this afternoon commencing at 1:30 in this room. It will continue through the afternoon and then it is again scheduled for this evening beginning at 7:30.

I will adjourn this meeting at this time. Thank you for coming.

(Hearing recessed.)

TESTIMONY TAKEN IN THE AFTERNOON SESSION

Mr. BARRY. We will call to order. This is the hearing on S. 866, which is Senator Packwood's Bill to establish the French Pete Creek Intermediate Recreation Area. The text of the Bill, of course, will be in the record. If you are interested in what the text of the Bill is, it is posted at various places around the building and you can read it at your leisure.

Generally and for the purpose of starting off the hearing, the Bill would establish an area which is closed to mining, to logging and to roading of the French Pete drainage area and dedicated to recreation purposes, with minimum development for recreation purposes.

We have heard this morning testimony from the Park Service, excuse me, from the Forest Service, describing what the present status, legal status of the area is, and describing what the plans are for its development in the future. This is including plans for a recreation development until logging and roading commences. In the railed area, the Forest Service has very kindly lent us and we have placed a relief map which is somewhat fragile, we were told, and should not be handled at all. It is sufficiently informative just to look at it to see, at least, what the area looks like. Many of you, of course, have seen it, but this gives you a different view, an aerial view, as it were.

It is not possible for me to continue as Chairman this afternoon. I expect to return this evening and I am asking Professor Lacy of the University of Oregon Law School to take the gavel at this time.

The other gentleman that you see at the table at this time is Mr. Bettis, from the University of Oregon, *Old Oregon* former editor. Now, we have two other panelists who will arrive for this afternoon and when they arrive, they will be introduced by Mr. Lacy. Meanwhile, I hope that you will excuse me as I am unavoidably required to leave.

One thing more, we have generally indicated that we want all views expressed at this hearing. While we didn't go and call up all of the logging companies to ask them if they wanted to send representatives, we certainly made it public that we do not intend that this would be a one-sided matter. Therefore, I wish to announce to you that this morning no one testified against the Bill, however, there were two persons who came to the meeting. One of them wrote out a hand written statement which was included in the record, but was not read publicly; and one of them gave his name, both indicating that they were opposed to the plan to save French Pete.

So, we wish to reiterate that this is a hearing in which the people of Eugene can express their views and we have no expectation that those views would be unanimous. Therefore, we welcome any views that one would want to present.

Thank you.

Mr. LACY. I have been handed about seven or eight slips of people who have to leave the hearing at 1:30. And not knowing any way to resolve this problem other than at random, well, one of these says 1:45, and that automatically cuts him out. But, I will simply go through these in order.

If you really have to leave at 1:30, I suppose that that is unfortunate and you can come back.

Mr. Mellem suggests that you try to keep your statement under three minutes, but I don't know if I go along with that. If you feel that what you have to say is really important and it takes more than three minutes I encourage you to go ahead with it.

Barbara Hoga is the first one.

BARBARA HOGA. I came today to say that I think that it should be preserved.

Mr. LACY. Dave McAllister?

DAVE MCALLISTER. I came today to just say too that I have hiked up there a lot and I have really learned to like that part of the country. I'm just hoping that it will be preserved.

Mr. BOB WYNIA. In my short lifetime, I have been witness to numerous tragedies which have befallen our society. The violence which permeates every aspect of American Society, not only affects our physical well being and that of our neighbors, but in addition it affects the very land we live on, the air we breathe, the water we drink and the wildlife around us. It is a small and fragile spaceship we survive on. Yet we treat it as violently as we treat our neighbors. Crimes which people commit against man are few and far between compared to the crimes we commit against our natural environment.

Once again the forces of industry and the need to allow the wealthy interests of our society to turn trees into money is confronting us as a people. This is an issue which truly affects every Oregonian as well as every citizen of this planet. The rationalizations which industry seems so adept at making about the need to "harvest the timber", the need for lumber to build homes, the large number of jobs provided in the logging industry, all seem hollow and unimportant when we consider that the very future of the existence of mankind may hinge on the decisions regarding thousands of French Petes all over this country.

If this sounds like a impassioned plea, that is precisely how it's meant. My family and I have spent numerous hours wandering the French Pete Creek area and have found no better place to educate our children regarding Oregon wildlife, the beauty of miles and miles of uncut trees and the ecology we hear so much about today. It must be saved. We simply cannot allow forest after forest to be turned into folding money which returns so little to the creation of a contented society.

Mr. LACY. Well, I might explain my position in this a bit. Mr. Barry asked me to come down as a member of the Law School Faculty who has no convictions at all about this matter. I would describe myself as concerned but essentially uninformed. I am aware, vaguely, that there is a multiple use concept for lands in the national forests. It seems to me that this is through the decision that was made some years ago. And to take the attitude, which is more or less how I read Mr. Wynia, that there should be no logging or on the other hand, that we must give no concern to recreation, I think to take that stand, while it may be satisfying to you, I don't think that it is going to persuade very many members of Congress.

If I were, and I am not going to make this decision, if I were a member of the committee deciding how to vote on this measure or ultimately a member of Congress, I think that these are the things that I would be interested in. Number one, what is the uniqueness of French Pete?

I have often over the years that this has been in the news, heard it described as one of the few remaining virgin forests. What really does that mean? What is a virgin forest and how few and far between are places like French Pete? Secondly, what exactly is the economic impact? If this area is closed to logging, does this really mean that there are going to be fewer jobs here in Lane County? Does it really mean that there will be less money pumped into the economy or is it simply a matter of putting the same people to work somewhere else?

I would think that some hard information on points of this kind are likely to interest people who don't have their minds made up in advance and who are really trying to do what is the right thing.

The danger to the recreational value, supposing there is some logging in the area, as I understand to be the present proposal of the forest service; is this incompatible, totally incompatible, sort of incompatible with preserving the kind of values that Mr. Wynia talks about.

I am seeking information on points of this kind as I suspect that members of congress will do, if they have open minds at all and I think that a good many of them do.

BRUCE SEDGWICK. I would like to say something concerning what you just said.

Concerning what you said regarding what French Pete is or as a logging industry. This is regarding the fact by saving French Pete, the money won't be used for logging interests. I think an interesting question and a question that we should all consider is, how much we want money in Lane County being put into logging to take away the virgin forest?

In other words, I am questioning your basic assumption or one assumption you alluded to, which was that logging should be of interest to Lane County people. Obviously, it employs a great number of people and it supplies the economy of the area, but we have to come to a decision here as to whether we support business expansion at the cost of French Pete. And whether the basic assumption that we need that kind of industry in the County should be questioned first? Do I make myself clear?

Mr. LACY. I guess that I didn't make myself clear. My question is, is it a choice? I don't know, as I said, I am seeking information.

Mr. SEDGWICK. Well, this is the question that I have to offer the voters and people concerned; is it or it seems to me the decision that you have to make is whether you want logging or logging interests to be maintained at the County's expense of French Pete and perhaps, potentially, other forests. So, we have to challenge our basic assumptions about economy and about making money. That is all I have.

Mr. LACY. All right, Donna Reimi.

DONNA REIMI. I would like to say that I am not familiar with the economics of French Pete. I just think that French Pete is really beautiful and I think that beauty can't be put in dollars and cents or anything economic.

Mr. BETTIS. Yes, thank you. I was perhaps going to say some of the same kinds of things. I think it is very important, while I agree with you and have many of the same kinds of questions, I certainly hope that Congress is going to pay attention to such questions and I am sure that they are; there is a great deal of value for those who have not had an opportunity to see French Pete for people like you come forward, Donna, and record the fact that it is a hell of a beautiful area and worth saving for that, among other reasons. I thank you.

Mr. LACY. Mr. Stickney, would you like to speak now?

CECIL STICKNEY. First I would like to compliment the members of the faculty and the students at the University of Oregon for putting on this program this afternoon. You are young people and you are going to have to live for a long time with what happens here today and what happens on other forums such as this.

I will have to confess to a lack of knowledge of French Pete, generally. I have been in the area and I have talked to quite a few people who have been there. I have seen it and I hope that it is preserved for, not only for the present, but for future generations.

The logging industry isn't always credible as I remember being in the last couple of years on a site where the trees were marked for cutting on the bank of a river. A little metal clip on the side said, "do not cut behind this mark" and there was nothing there to cut. They were cutting right down to the river and on the other side of the river, bulldozers had torn up the bed of the stream.

I recall, I came up to Oregon after World War II and I had resided in Ohio before that and I was quite familiar with Southern Michigan. Back around 1910, I think it was, the State which had had the finest forest that America has produced probably, the large white pine. Around 1910, they woke up one morning and they had 20 acres of them left. They made a park and they are there yet.

I hope that we don't get crowded into this kind of position. Mr. Lacy and others have talked about value; what is the value of a forest, of our streams, of our wildlife? Can we hang a dollar sign on them as has been for so long in Oregon or must we treat them as a value beyond that?

We are here today, all at our own expense and on our own time, while the opposition is fortified with the money of corporations with good expense accounts that none of us have.

I rather shudder when they talk about multiple-use. I have seen some of it. Multiple-use ends up as a few picnic tables. Multiple-use is supposed to be or to reflect the interest of the public, but after all is done, they call on people to repair the mistakes that have been made. When I think of multiple-use, I think of land being opened up and access roads for the recreational use for the man with the gun.

I am a hunter myself, and I have hunted all my life, but I deplore the ravages being inflicted on our wildlife by the man with the gun.

I want to make a little notation or a little comment as to multiple-use. I incorporated this in a letter to the editor about French Pete two or three years ago. During World War II, meat was scarce and in one part of the city, a butcher advertised that he had for sale, horse and rabbit burgers. Of course, the public was interested in that. Also interested was the meat inspector and he went to call on this butcher and checked through his rabbit burgers and couldn't trace any sign of rabbit. So, he asked the butcher about that and he said, "well, my sign says rabbit and horse and I use one rabbit to one horse." Now, that is what we get out of multiple-use as I have seen it here today in Oregon.

Mr. LACY. Mr. Stickney described himself as a hunter, but if your letters to the paper can be believed, you don't load your gun.

Mr. STICKNEY. Well, today's hunters are mobilized and too mechanical.

Mr. LACY. Mr. Tom Moore?

TOM MOORE. I have a very short simple statement. I learned from the timber industry that trees are a renewable resource and it is a well known fact by all of us that wilderness is not.

Mr. BETTIS. If you will forgive me again, I hate and I hope I don't appear to be playing the part of the devil's advocate or suggesting that I have a position on this when I really don't. But, what Mr. Moore said about the renewability of forests suggests another question that has been rattling around in my head. I suspect that most of you are familiar—well, French Pete is described as a virgin forest and what does that mean? Does that mean that it has never been logged and if so there must be lots of land in Oregon that hasn't been logged, isn't that true?

Well, if you are familiar, let me say my part and then I will call on you. At the summit of Highway 58 on the part of the Skyline Trail that runs into Rosary Lake, there is a very handsome stand of timber there with trees that range up to two or three feet in diameter at 5,000 feet and I suppose that must mean that they are 70 or 80 or more years old. I don't think that they were logging up there that long ago, so, is that a virgin forest?

If you drive along Highway 20 from Sisters out toward Suttle Lake, there is a beautiful stand of Ponderosa Pine. Again, those trees must be at least 100 years old and I don't think that they were logging there 100 years ago, so is this a virgin forest?

Mr. WYNIA. Excuse me, Mr. Lacy, but I was born and raised in the Tillamook area and yes, it is true that you can find in Tillamook County a stand or two where there is still virgin trees, but that is not considered a forest by many of us who have been born and raised in the State.

As in the State of Michigan, as I learned from some of my friends that come from Michigan, you can still find in places in Michigan where you can still find virgin timber or would you consider the heart of a park in the City of New York a virgin stand of timber? This is the question or are we talking about really preserving a thousand of acres piece of property that is represented as the only one left in this day of any expanse of virgin timber. It is, as I understand it, the only one left.

There are places that we haven't gotten the Cat and other logging equipment back into yet and there are pieces of virgin timber still standing there, but I, for one, do not buy that idea that that comprises a virgin forest. I think the thing that you are talking about on the Skyline Trail is just a section, like the Willamette Greenbelt. That is beautiful along side the Willamette and I wouldn't want to destroy that, but it does not take away the fact that we are destroying slowly all of the last stands of virgin forests in the State of Oregon.

Mr. MOORE. Roger, excuse me, do you plan to include testimony in this?

Mr. MELLEM. Yes, later.

Mr. MOORE. This may help you out as Roger has about every piece of technical information concerning French Pete, physically how much of the land is left and he is apparently going to include that in the record and I think that most members of Congress who are concerned with this

have had technical information made available to them, so it perhaps amounts to a decision made on a little more information than just the technical side.

Mr. MELLEM. I think that we should go back and get some more of the people who have to leave right away.

Mr. LACY. All right. Catherine Lauris?

Mrs. CATHERINE LAURIS. Ladies and Gentlemen of the Panel: My name is Catherine Lauris, 1240 East 18th Avenue, Eugene. I am currently chairman of the Board of Trustees, Lane Community College, and was for 12 years an elected member of the Eugene City Council. But I speak today for the preservation of the French Pete Valley as a private citizen and a fourth-generation Oregonian.

(1) One point that seems to be overlooked in the debate is that some wilderness must be preserved even if no human being approaches it in the next 100 years or more. Natural growth, heavy timber, and the entire cycle of change within a forest are necessary to the maintenance of good climate at the lower elevations, including rainfall, temperate summers, purification of air, clear, cool streams, and absence of erosion.

To completely denude all mountains and valleys of their forests, even though new plantings are contemplated completely changes the natural, historical climate for which this state is famous and which makes the Willamette Valley a comfortable place in which to dwell.

(2) Another point is that no given institution or natural phenomena can be all things for all people; to be that is to guarantee its overuse and ultimate destruction. Wilderness can be wilderness only because it is remote, withdrawn, dangerous, and inaccessible except to the hardy few. Not all persons aspire to primitive experiences in wild places. Nor do they all deserve to. One has only to view the trash, the motorized invasion, the careless usage and general desecration of our river banks, camp grounds, and forest trails to realize that great numbers of persons do not cherish the out-of-doors for the subtleties of its beauty, its flora and fauna, and its silence. There are numerous playgrounds now for this kind of recreation; all of the forest and mountain retreats cannot be made available to the modern world or they will shortly lose the very qualities that made them unique and precious.

(3) A third point is that the French Pete Valley represents about one percent of Oregon's timber stand; its short-range economic advantages can hardly outweigh the long-range ecological advantages. This generation of Oregonians have an obligation to preserve some of our magnificent heritage for those generations that will follow us. A managed forest land, a logged and reforested valley is not a true heritage, though such have their place.

(4) A final point is something of a recommendation for alternatives. Rather than using our energies and resources to foster irreversible change on a last remaining natural preserve, we should concentrate on the restoration and re-use of the lands we have already laid waste. We should accelerate the reforestation of areas lying open and unused throughout the old farm valleys, stretches along the public highways, the old dust bowls, the vacant lots and arid strips within the cities. We should turn our attention to restoration to good economic use of lands that were once fertile and are so no more as a result of our wasteful practices; I recommend the widespread study of the restoration practices used on old worn out farms in Ohio by Louis Bromfield thirty years ago; we should have paid him more heed. We must make wise re-use of idle lands lying within our cities, some covered over by deserted sheds and warehouses but there to be used for developing recreation areas, new living quarters; so we must rebuild livability within the cities; and we must better train and educate all persons in the proper use of recreation areas and in respect for the fragile nature of the out-of-doors.

We have been so intent on the easy invasion and careless development of new lands and virgin forests that we have not given sufficient thought to remedying the resulting ills; we are perfectly capable of doing so if we have the will. We have both funds and expertise to promote good husbandry of the heritage we hold in trust. I recommend we do so.

Thank you.

Mr. BETTIS. Thank you.

It has been said by numerous foresters and naturalists, in particular, in reference to French Pete, well, I have heard an expression of concern—not exactly of concern, but simply stating a fact that in all likelihood if we allow French Pete, which I would like to happen anyway, but say that we allow French Pete to remain unroaded. We establish good trails and manage the unit as carefully as one can manage a wilderness type tract, French Pete is almost certain to burn, eventually. A large part of it will burn; under logging a large part of it will burn eventually, also. But I am now talking about preserving this area because of its unique or unusual circumstances at this time, a very brief time.

I am curious, given the certainty, whether you are aware of this or agree with me or not, let me give you the fact, which may not be a fact, that it will burn within 100 years. That we will lose all or a substantial portion of it and that because of its roadless character, portions of that fire could move on up into that wilderness area freely. Do you still wish preservation under those circumstances?

Mrs. LAURIS. Yes, I think so, Mr. Bettis. It is a chance one takes because no matter what we do, as if we go in and manage it and log it and do all of those things that will destroy the wilderness area, anyhow, we have the fire protection and fire fighting facilities as one part of our plan, anyway. But, if we don't open it to logging and other recreational use, then the only threat is the lightning and this is a natural kind of thing that could happen. It is simply a chance that we have to take in the natural cycle.

Mr. LACY. Let me call on this gentleman back here who has been trying to speak for some time.

Ed REIMAN. In response to the question about the possibility or probability of fire in French Pete, you have to realize that as surely as you increase human use of French Pete, you also increase the chances of fire.

The chances of an uncontrolled wildfire by natural causes is the least likely of any fire causes. As a matter of fact, generally speaking, when you have fires as a result of lightning, you have accompanying rain and it generally extinguishes those fires within the area. That is the nature of lightning fires.

Anybody that has fought fires in the forest knows that. I guess that is it on that particular question.

I can't see that as a logical argument and as a matter of fact, I see that as a very good argument as to why you shouldn't log French Pete, because as soon as you send folks up there with bulldozers and cigars and whiskey, that is what is going to go down.

I think that the whole premise of this hearing or the reason that we are here today is to comment on the absurdity of our society. The fact that we are here trying to decide how we are going to use French Pete is in and of itself an obscene question. I think that it is a false idea that the entire face of the earth needs to get used. I think that is absurd.

There are other arguments. The argument that we are going to discuss. Nature has been taking care of trees, letting them die, letting them grow and letting them rot for millions and millions of years, long before we were ever walking around on this part of the earth. There is nothing ugly about the stump of a tree that has fallen from old age. That is a natural thing. There is something dreadfully ugly about the stump of a tree that has been cut down by chain saws. There is something dreadfully ugly about an old flash burn. There is something dreadfully ugly about that.

I am going to have children someday and I hope to be able to take them to a place where there has never been a chain saw, except to maybe clear a trail. That is my feeling on the logging of those trees and heaven help us if we lose the trees to disease.

I am not a biologist, or a botanist or a scientist, but I see the scientific value of a vast wilderness area. We are talking here, not about a simple patch of trees, but we are talking about an entire drainage area. An entire natural set of phenomena, something unique as there are only two wilderness areas left in Oregon. The Cascades are one and the French Pete is the other. At the turn of the century, we had over 100 of these wilderness areas, for a few facts and figures.

This is unique, nowhere else do you find the geological setting, like the simple accumulation of pine needles to form the natural compost. You can't find wildlife and flowers growing just the way they are in French Pete, no where else. This is unique and this is an entire natural phenomena, untouched by man with the exception of trails.

You asked if this was an either/or situation or question and I say that it is. On your relief map there, you will see that French Pete is very steep, particularly the entrances and there is no way that you can build a road up there suitable for logging without destroying both sides, likely, of the valley. It erodes terribly, even the trail itself that is up there doesn't help the ecology of that area and if you send a D-9 cat up there and you are going to ruin the whole valley. There is no doubt in my mind about that as I have hiked it too often to know.

Well, coming back to my notes, I put this uniqueness question down at the bottom. Around the turn of the century there were 100 and we have got two now. I think there was a Rabbi that wrote during World War II, that he saw somebody carried away by the Gestapo and he didn't say much. He saw his neighbors carried away and he didn't say much. Pretty soon they came and got him and there was no one to hear him when he did finally cry out.

I hope that we don't wait to cry out when there aren't any wilderness areas left. That is all I have to say.

Mr. LACY. Thank you. The lady in the back of the room.

LIBBY EVANS. My name is Libby Evans and I would just like to make one further comment concerning the possibility of fire in the French Pete area. French Pete has obviously been with us for many, many years and it has not burned down yet. I think that we would be relatively safe to assume that if it is still standing after this length of time, that it will continue to stand unless somebody comes along and cuts it down.

Furthermore, in old growth stand or virgin stands of timber as French Pete is, the older bark trees are very resistant to fire. If, by chance, fire does take place because of the nature of the age of the tree and the age of the bark, they will be pretty fireproof. But, I think that the possibility that a fire naturally caused is going to burn up that forest is relatively low. Also, partly because of the fact that it is very thick, and very cool on the floor of that area, which would lower the possibility of a devastating fire.

Mr. LACY. Thank you.

Now, I would like to introduce my colleague, Professor Chapin Clark from the Law School, who has just joined us.

All right, Stan.

Mr. BETTIS. I would like to point out that French Pete has burned many times and the historical evidence is there. So, let's not say that it will never or has never burned as it will and has.

I wanted to ask a question of Mr. Reiman. You referred to French Pete as the only wilderness area left and the Cascade as the only wilderness areas left in Oregon. Could you define wilderness areas?

Mr. REIMAN. By wilderness area, I assume that we are talking about a track of land large enough to justify preserving. I don't know the real legal definition of the word wilderness, in fact, I don't know if there is a legal definition. But I am talking about an area that is large enough so that you can not walk through it in a day. These areas that you talked about, you are able to walk through them in a couple of hours.

Mr. BETTIS. Then you might say for the record the clarification here being that the area is or they are entire units as French Pete is a total watershed. The attempt here is to provide an ecological system as a watershed. The Cascade area, as I understand it, also stands as a unit or a watershed and is protected, is that correct, Mr. Reiman?

Mr. REIMAN. As I understand it, yes.

Mr. BETTIS. For my information, what size of an area is French Pete?

Mr. REIMAN. 19,200 acres.

Mr. LACY. What does that mean in miles east and west and miles north and south?

Mr. REIMAN. I think that was defined this morning by the Forest Service.

Mr. LACY. All right. Mr. Steve Wilson?

STEVE WILSON. Well, I just have a fairly short statement. Earlier you were talking about the amount of virgin forest that is left in the State. There are a lot of people under the impression that most of the State of Oregon is virgin forest. They drive along in their car and fortunately, a lot of the areas on the highway haven't been logged. It is back a half a mile or a quarter of a mile and you can drive across the State and through the Cascades and there are hundreds and hundreds of miles of timber, but this just isn't the case.

Anyone who has ever hiked through the Cascades or flown over it, it has the wringworm effect. To fly over in an airplane, it is really distressing to look down in the Cascades and see the hundreds and hundreds of patches that are left after logging. This is pretty much what is in all the forest.

I have hiked in French Pete numerous times and I have hiked in the mountains above it and I think that there is no sight in the State of Oregon equal to the view from the mountain looking out one side at the Three Sisters and then looking out the other side down into French Pete Valley, itself. It is just one long, continuous side of virgin forest. I would like to see it preserved for myself and for my children.

Mr. LACY. Thank you. Mr. Al King?

Mr. AL KING. I am Al King, candidate for State Representative here in Eugene, and I have coordinated a course in forest wilderness management. Most of us present are aware that the Willamette National Forest has initiated a permit system for wilderness entrance and use. It will not be long before entrance quotas will be established, specific activities will be limited (horseback riding, for example), and/or permits may have to be purchased. Some, or all, of these possibilities are already included in existing plans for the wilderness areas in the future. Therefore it is impossible to surmise that we have enough wilderness area in Oregon, or the Willamette National Forest. Our wilderness areas are already crowded.

Whether or not French Pete is the best area to become wilderness I am not fully sure, as I personally feel a need for additional facts. I'd like to emphasize the need for a special committee either doing additional research, or generating more information to the public to enable citizens to fully comprehend and decide which areas should become wilderness. Presently, it seems to me that French Pete probably should be locked into wilderness because of its pristine qualities, availability to the public, and its proximity to the Three Sisters Wilderness. Proponents of logging in this valley wish to harvest the timber because it is mature and diseased. I feel this argument should be discounted as this condition is inevitable for any wilderness, therefore French Pete may not be a special situation which would call for immediate timber harvest. In addition I would like to point out that the leveling off of our national population should initiate a decreasing demand for timber 20 years hence.

Private profit at the expense of Oregon's, the Northwest's and all of America's citizens is the only legitimacy for log exports. If we should add any wilderness we would lose potential logging jobs, but I do not foresee any positions already held. On the other hand I don't see timber companies overly concerned about employment when replacing men with machinery. I recommend satisfying our domestic needs for timber and wilderness as a first priority, thereby limiting log exports until another solution providing for timber demands and the need for wilderness is found.

Finally, I would like to call for a commitment from our federal representatives, senators, and federal candidates as to their exact stand concerning French and this issue long before the general elections in November.

Mr. BETTIS. Roger, has there been or will there be something on the economic impact of logging this area?

Mr. MELLEM. Yes, there is going to be this afternoon.

Mr. LACY. Mr. Bob Foster.

BOB FOSTER. I think that we should preserve French Pete. I have hiked through it and really enjoy hiking through rapid flowing streams that I can drink out of and have cold fresh water. I enjoy hiking a lot through the forest. The water that we will need in the future is limited by cutting the trees and letting it wash out.

This is my idea, that it would be sort of interesting to have a National Park developed throughout the Oregon Cascades, including Mt. Hood, Mr. Jefferson, the Three Sisters, Mt. Washington. All of these areas in one National Park and I think that it will be a really good idea, because I know that we need more areas for recreation in the future. This may be the only way to keep it from being logged.

I wish for French Pete to be saved, if at all possible.

Mr. LACY. Thank you. Dr. Herbert McCornack?

Dr. HERBERT MCCORNACK. I have been familiar with the French Pete area for many years. In my opinion, it would be shortsighted and a mistake to road and log this beautiful little valley. It has great scenic and recreational value. There is no hurry. If you save it from destruction now it could still be logged in future generations if it should become necessary.

I am strongly in favor of Senator Packwood's Bill S 866.

Mr. LACY. Thank you, Doctor.

Mardee Pagac?

MARDEE PAGAC. I have a written statement, but first I would like to mention something concerning the economic use. I was just up in the Cascades yesterday and I just can't see how they can say that it is economical to log that beautiful area.

I would like to voice my support for Senator Packwood's Senate Bill 866 and Representative Green's House Bill 5212. I am certain there will be much testimony on the beauty and uniqueness of French Pete so I will not go into that. I am not an expert on conservation or logging practices but I do feel that there is something left to say. I know that the logging lobby will come on strong at the Washington hearing and I think that I know some of the things they will say as they have been spending a lot of money on ads in Oregon newspapers trying to rally Oregonians to their side. (Money I feel could be better spent on reforesting.) I would like to let the committee know that not all of us have been fooled by these ads.

An example is an ad in the *Eugene Register-Guard* paid for by Boise Cascade which is entitled, "Today, you're invited to drive in most everywhere. Except where you most want to go". It tells us that the multiple use concept is in "some danger" due to the Forest Service study of 34 million acres as possible wilderness areas. It gives the distinct impression that there is a good chance that all of this land will become wilderness, and thus lock campers out of one fourth of the National Forest lands. This, of course, is untrue as by no stretch of the imagination will all these *study* areas become wilderness areas. The ad is directed specifically at people with camper trucks and trailers and end by saying in effect, if their (Boise Cascade) wheels can't go into these places neither can the campers. The question that this brings to my mind is does the Forest Service have to yield to campers any more than to loggers? I'm sure some people would camp in the parks around the great monuments in Washington, D.C. and even on the White House lawn, I suppose, if electric and water hookups were put in, but does that mean Washington has to make these accommodations for camper vacationists? Of course not.

This also states that the wilderness would be reserverd only for the one half of one percent of the people who hike or pack into wilderness areas. I, myself, am one of, I'm sure, many people who are not part of that percentage as yet but plan to raise the percentage. I would like the committee to consider some possibilities. First, that trailer camping is a fad which unquestionably has been growing, but will not necessarily continue forever. I feel that this is just a start of getting back to nature drive and that hikers and backpackers will be increasing dramatically, as the sons and daughters of the trailer campers decide they want a true wilderness experience. As our world gets more automated, more and more people will need a place to get away from it *all*. The second consideration is that it might be high time we started encouraging relatively pollution free recreation such as hiking rather than trailer camping which requires big automobiles, sanitary dumps, electric hook-ups, and usually results in expensive garbage collection to pick up all the beer cans left behind.

Making French Pete an intermediate recreation area will not "lock out" potential recreation seekers, it will give more people a chance for a true recreational experience and conserve this opportunity for our children and their children.

Thank you.

Mr. LACY. Thank you.

Mr. Scott Peterson?

Mr. SCOTT PETERSON. I have very little to say except that I am in support of Senator Packwood's Bill. My only contact with the French Pete area came two years ago when I took a weekend trip up the valley in the middle fo April. I think that at this time the French Pete trail was one of the very few wilderness trails that was open at this time, primarily because it is a lower elevation and it was not plagued by the receding winter snow. The fact that the French Pete is a low elevation valley is very important in terms of hiking and backpacking because it is an area that can be enjoyed.

This extends the area and a lot of people are going there in March and even before, where this would be impossible in the higher regions and areas.

French Pete is unique, it is different because of its low elevation. It is growing very rare right now and I certainly hope that they do nothing to destroy this.

Mr. LACY. Mrs. Shirley Terreberry?

Mrs. SHIRLEY TERREBERRY. I have come with a prepared statement, but I am prompted to make a few remarks as well. I do laud that landscape management practice of the Forest Service that allows a band of trees to remain standing by the highway so as to give the illusion to the passing motorist that there is forest there. But, if you peer closely on your next trip through, you will see that it is not true. I wish that everyone could fly over the State, because I don't know of any other way to realize how extensive is the rape of the land than to fly over and see the patchwork quilts below you from one end of the Cascades to the other.

The second part of what I want to say is in response to Mr. Lacy's request. I wish that we had a system that would allow me to say how much I would gladly pay in taxes to preserve the forest. Instead, I think that taxes have been used to exploit my own personal interest and this is not only in this country, but abroad.

I have spent many days and nights in the enchanted region called French Pete.

I've hiked many miles of trail in this virgin valley, spent many nights under the green canopy of this most tranquil place, fished the crystal-clear water of French Pete Creek, and bathed in the quiet pools of this creek and its clean tributaries.

I came to Oregon in search of places like French Pete, and I shall leave Oregon—for Canada, probably—if these precious places are sacrificed for economic gain.

I have spent almost 200 nights, now, in Oregon's "wilderness areas", most of which are at high elevation, accessible only in July and August, where I must look out over broad swaths of clear-cut below.

I rely on French Pete for my access to wilderness in spring and fall. There is no other place like French Pete anywhere in this state, let alone so accessible to those of us who live in Oregon's second most populous region.

If Oregon persists on the same path as Michigan—from whence I came—where the forests are all gone, the streams are stilted, and the lakes polluted, then I must say "good-bye", and find another home.

Mr. LACY. Ray Edwards?

Mr. RAY EDWARDS. My name is Ray Edwards and I live in Fall Creek, Oregon. Some months ago I decided that I would, this spring, go on a hiking trip. Several times I have been by the Haggert Creek Trail signs up on the hill and so this Spring I decided that I would go up there. I was all packed up and I was let off by a friend. As I got off about 100 yards from the road on Friday morning, chain saws, logging whistles and so on. As I got on the trail they were building the road and bringing heavy equipment in.

So, last weekend, a friend and I were going to go backpacking and we also wanted to fish, we tried to think of a place where we would be able to backpack and fish—of course, the season hasn't been opened yet in the high lakes and they were snowed in anyway, but I just couldn't think of another place besides Haggert Creek Trail, which is fairly close and which is now being destroyed, even though it is an immacualte trail with dense forest, beautiful streams and loggers.

So, in talking about French Pete, I have never been there and so Friday morning we went up. It is an exquisite place, wonderful trails. We hiked in about four miles and saw two tiny pieces of litter. If they log it off, it is gone and I don't know where I would go next spring. Obviously Haggert Creek Trail is out and if French Pete is out, then I will have to wait for the high lakes to open.

My approach to French Pete was to say that French Pete simply doesn't exist, so forget it to the loggers. I think it is important, but what would happen if we didn't have it. Say, in two weeks that French Pete were to burn, the economy of Oregon wouldn't go down the drain. If we were that concerned about logs, then we would just have to stop exporting. Well, we just have to have our priorities on some things. We just cannot assume that the economy is based on consumption.

We have to stop and I think that we have to stop with French Pete and I wish that they had stopped with Haggert Creek Trail as I liked that trail very much.

Mr. LACY. Thank you. Paul Happel?

Mr. PAUL HAPPEL. Mr. Chairman and friends. I am interested in ecology and in French Pete area as a whole. The French Pete Valley, as has been mentioned before, is one of the last few remaining virgin valleys, "virgin valleys". I think that it should be preserved for future generations. I would like the children that are now growing up to get a chance to see this before it is logged or destroyed.

As I understand it, if it is used as a National Park and used extensively, this would also include logging. This logging would essentially destroy the valley if roads were put into the area.

To make French Pete an intermediate recreation area might be quite beneficial to this particular area, if the extent of the recreation is for the people. One thing that this intermediate recreation area would do, possibly, is to take the heavy use off some of the wilderness areas. This would be a place for you if you did want to go see a particular mountain or a particular waterfall then they could come to the place at French Pete and do that.

We have seen that in the last two years that French Pete has been used very extensively and has become a so-called hot spot and people have come there to hunt and fish.

With the extent of the intermediate recreation area, it could remedy this circumstances so that it won't be destroyed by all of these people going in there.

As to building roads in this area, personally, I am against it because what roads have done to other areas. You put a road in there and people want to go in, they want to see an area, but they are not willing to extend the energy to go into an area. They would rather drive to it, like you can see a National Park. They want to drive through so that they can say that they have been there and then drive out as they are throwing their litter out the window.

Although a wilderness area is not beneficial to people who are handicapped and for these people, I feel sorry that they cannot use the area, cannot walk into the wilderness area. It is very unfortunate but it is something that we have to live with. If I, myself, became crippled, I would know that I just couldn't go into an area like that.

That is all I have to say. Thank you.

Mr. LACY. Mr. Happel, would you explain to me what an intermediate recreation area is?

Mr. HAPPEL. Well, an intermediate recreation area would mean, for one thing, that you would put roads in. It is under a plan that enables people to go into the area with facilities and well maintained trails.

Mr. MELLEM. Well, in the hearing record, the question of what exactly an intermediate recreation area is has been really well detailed, this morning and I imagine that it might be touched on later.

Mr. LACY. Do I ever get to find out?

Mr. MELLEM. Well, we would ask someone else to define this.

Mr. BETTIS. Roger, has any information been given about handicapped persons using this area?

Mr. MELLEM. I am not sure, but perhaps Mr. Jackson who will be testifying a little later might touch on that because I am sure that he is involved with the program to some extent.

Mr. LACY. Mr. Jeff Elphinston?

Mr. JEFF ELPHINSTON. I am Jeff Elphinston and I am from Australia. We have many trees in Australia, beautiful types and different ones. But since I have been here, I have really been impressed with the Douglas Fir trees and the French Pete Valley. It is a fine stand of Douglas Fir trees in their mature state, growing to their full height. For this reason, I advocate this bill to make French Pete an intermediate recreation area.

It is also an investment for the future because if the land isn't saved from logging, it can't really be redeemed. The trees do grow again but it takes much time and the original character never returns.

The land can be used for popular recreational use which won't be damaging to the intermediate recreation area, such as nonmotorized use. If you get motorized use, it will inflict considerable damage on the land and reduce its capacity for recreation.

There has been some talk about wilderness areas and although French Pete isn't advocated for use as a wilderness area, it has some similarities because if it is kept unroaded and motorized vehicles aren't used in the area, well, it can have some of the character of a wilderness area.

The present statistics quoted say that approximately one half of one % of people use wilderness areas and I question the number because I use wilderness areas myself and I help take people into wilderness areas with the University. We must have been in this area many, many times and as far as we know, we have rarely become a statistic. We have filed in the registration forms at the entrance to areas just a few times, in other areas there have been no facilities for registering, so I feel that the percent of one half of one percent of wilderness usage is very misleading. It is probably much higher than that.

I am referring by this that there is much higher use of a valley, such as French Pete, than is generally understood. We have talked about the reasons such as the low level, away from the snow and accessability year around.

The gentleman before me mentioned Packard Creek. Now, I was at this area just about a month ago and I saw the logging road going in and I noticed how similar the valley was to the French Pete Valley. The logging road had gone in about half a mile when I was there and there was mud all over the trail and fallen trees and you couldn't even find the trail for half a mile. We just wandered around in the mud. The water was becoming stilted up and I can't imagine a mess like this being made in the French Pete Valley. This would be very simple to imagine if logging takes place in this area.

One last point, some of the people mentioned how you can see clear cut from a plane. I say that when you climb some of the mountains in Oregon, you can see the boundaries of the wilderness area. As soon as the boundaries of the wilderness ends, the clear cut begins. The only reason that the wilderness areas aren't clear cut, it seems to me, is because the trees aren't of as much commercial value. That is one of the reasons that they were made wilderness areas.

So, apparently, once an area has commercial value, then there is a fight over whether it will be a wilderness area or not. In French Pete, there is the commercial value, but I feel that this area must be saved for future generations.

Mr. LACY. Jill Warrington?

Mr. JILL WARRINGTON. I have, for the past two years, been aware of the conflict of interests over the French Pete area and have often planned on hiking through the area though I was not able to until last weekend. Putting aside the easy, logical and true argument I then saw, that this area was accessible to the hiker but still relatively wild off the roads, and beautiful, stimulating and refreshing; as I said, putting aside this excellent but feeble, in the face of lumber needs argument, I still question the desire to begin clear-cutting patches in this area.

Looking at a Forest Service map and seeing the location of clear cuts surrounding the area in question, and the beginning of the end of the last fringe area protecting the wilderness area itself, one might feel a natural urge to maintain this area. But, coupled with the fact that there are already on maps almost twenty recognized and designated areas of interest or recreation in the French Pete area, the consideration to clear cut between them and among them, if not through them, suggests the beginning of another end: with growing population, more leisure, more encouragment and development of activities in the outdoors, and thus increasing pressures on the open spaces that remain, the end of such space as we have begins. If the wilderness areas are to be just that, wilderness, care has to be taken to preserve the natural wildness of it. The effect of many people and more every year on this wildness if contradictory and destructive of its quality. But, untouched, forested areas that surround it are equally as beautiful, more suitable to less knowledgeable and able hikers and climbers, and relieve some of this pressure on our proudly but dubiously labeled wilderness areas.

After hiking through this area, I was very moved by French Pete Creek, the impressive beauty and power, in a non-electrical sense, of it. Only after getting away from the man-made; the reservoir, the road, the cars and campers, back into the woods, on trail or off, but into the woods, could you feel this stream and the environment that created it and that it creates. I promised myself not to depend on poetic arguments so enough of this, but it had to be said.

Lastly, as a long, too long, native of New Jersey—the most densely populated State in the country with 953 people per square mile—I can deeply appreciate the desire to preserve open spaces and protect them from overuse. I have at times been encouraged in thinking that the West has learned lessons from the East, but more and more often, I feel that the West responds first to the economic pressures that made the East Coast the fine example of wall-to-wall, shoulder-to-shoulder, neon sign-to-neon sign, factory-to-factory type of society that it is today.

Please keep the French Pete Creek Valley and surrounding scenic areas for the safety valve we need more and more; room to move and breathe and be away from the everyday pressures of crowding, money making and money spending with all its overpopulated products, before we come to believe that is where we come from and what we are made of. After eighteen years in New Jersey and living next door to New York City, where millions were less exposed even to open space than myself, let me tell you, it is harder to believe in the open country and the forests, if and when you see them, than it is to assimilate the artificial but constant world of consumeritis and concrete, and the insidious, omnipresent advertising for the bleak expansion of this hyperman-made world: And just a short quote from E. E. Cummings, ". . . A world of made is not a world of born. . . ."

Mr. BETTIS. I have a question. Would you describe yourself as an outdoor type person; that is, do you camp and hike and climb and the whole bit?

Ms. WARRINGTON. I would describe myself as an outdoor type person, but I don't get to do enough of it. When I do, it is in a place like French Pete.

Mr. BETTIS. How did you happen to go to French Pete?

Ms. WARRINGTON. Pardon?

Mr. BETTIS. How did you happen to go to French Pete on this occasion?

Ms. WARRINGTON. Well, I had heard of the controversy over the past two years and I always wanted to see what we might lose and I never did have a chance to get into it. So, I finally went last weekend.

Mr. BETTIS. Was this part of the outdoor program or an organized hike or a group or what?

Ms. WARRINGTON. Well, it was through the University of Oregon as there was a group going up, but I had heard about it from various groups before that.

Mr. BETTIS. Thank you.

Mr. LACY. Representative LeRoy Owens?

Mr. LEROY OWENS. I just have a brief statement and then I will answer any questions that you might have.

It is appropriate that this hearing is being held today in close proximity to French Pete and the people who are most directly affected and concerned with its future. To argue that logging this largely untouched area is in the foremost public interest is to justify the long history of re-classifying the use of public lands to meet the insatisable appetite for profits and building materials. Failing to approve the preservation of this area is to admit that sustained yield practices are failing. If this be the case, logging French Pete will not solve the problem.

French Pete is more than a piece of real estate with usable timber upon it. It is a symbol of man's unrestricted use of his common environment with inadequate consideration for sustaining the resources of beauty, watershed, wildlife, and recreation as well as timber. If the need for lumber transcends the importance of retaining the remaining wilderness sites, then our future is gloomy indeed. Destroying the French Pete Valley as wilderness will not solve our long range needs for lumber. If saving French Pete will create a crisis in providing lumber for needed building and export, then we best face the crisis now, while some wilderness areas are still relatively intact.

We must face the crisis, now, not after all opportunity for preserving wilderness is past.

To argue that this one area, using the timber on it now and the accompanying problems to watershed and the recreational use and, so, I think is disastrous thinking. I am very concerned about this as I am sure are the people who have been at this hearing today. It seems to me that at some point we have got to establish a line to say that to the future of this State, the heritage and what it is and has been to us in the past will, to some degree, influence the future. The French Pete is a symbolic remembrance of that past, the memory and hopefully will be a continuing symbol of what is ahead and what we will hope will continue to be in the future.

Mr. LACY. Thank you.

Mr. CHAPLIN CLARK. Mr. Chairman?

Mr. LACY. Yes?

Mr. CLARK. I have a question. I will ask that question and then I will make a little speech to explain the question to get your reaction and perhaps that of any other witness.

The question is, do you think that if French Pete is saved for recreational value, that we should charge in order to enjoy that value? And if we should charge, would you and other people be willing to pay?

Now, that is my question and my analysis, which may or may not be valid goes something like this. I think that there are lot of resources like air and water and they belong to everybody and yet they belong to nobody on the side of property sense. The economists call this the common pool property. That is, the incentive is to develop and exploit it because there is no thought involved in utilization. I don't mean by exploit it that it is necessarily a bad word, but utilization, to use the air and use the flowing water in the streams.

It costs us nothing and yet with man's use, there are some costs involved. Clearly, and the question occurred to me, I think, when the earlier witness, Shirley Terreberry expressed this point of view, she said, "I wish that I would be able to show how much I value this by paying taxes" or by showing it by my pocketbook. In other words, she was talking about the economic loss that might be sustained if French Pete was not logged and yet, that is really not so important as the total economy of the State, particularly in the long run.

Others have testified to the accessibility of French Pete, which can be translated into high use or usability and it is clear that the publicity of the last few years has increased that use. I personally have gone into French Pete because of the publicity.

Now, I am trying to put all these factors together and getting back to my original question. We have taken an initial step to limit use so as not to effectively destroy what we are trying to preserve by high intensity use. The first step is the permit system and I suppose that we take that with a sigh of resignation. The fact that that is necessary, but I suppose that it is.

Now, a step beyond that would be, of course, the charge and maybe this is too far out an idea; but I am raising the question because are we coming to that point, do you think? Do you think or are we coming to the point where recreational values are so important to us that we will charge and then accept or be willing to pay for the privilege of reserving this for all of us? Why should we sustain the burden through taxes or tax payers, which means that non-users pay as well as users? Why not have a direct use charge for those values that we place high in our own field to give some relief in the economic situation, instead of absorbing the tax payers. Also, to give some curtailment to the high density use or high intensity use.

Now, that is an awful long winded question and maybe others will want to respond to it as well.

Mr. OWENS. I would like to respond to it. I would hope that we never get to the place where the only way we can protect our common heritage is to place a price tag on it and then have people purchase back the heritage.

Mr. CLARK. But we didn't pay for it, nonetheless, did we not? I mean that it seems to me that that is avoiding the question.

Mr. OWENS. Well, we do pay when we use air and water and all of our other resources, in one way or another. The United States Government will have to sustain that land, I assume, in its natural state.

I think that it is very logical for us in this sense to preserve this just as we would water and air. We have come to the place where the use of common resources breathing, for example, has to be taxed in order to maintain some pristeen nature to it and so on, and I think that is too bad.

I know the argument of providing some protective system through taxation. The problem with that is that we are then taxing those who make direct use, those who can afford that or can't afford that will be denied that natural right to begin with. I don't think that the use of our wilderness areas is a privilege and I think that it is to some degree a right. I think that we need to trace down our philosophical concepts of what belongs to us and what did to begin with. Maybe paying taxes to support that would be generally accepted to the Forest Service or the BLM or whatever kind of organizational effort which will preserve wilderness

or near-wilderness areas, just as we would other things.

Mr. CLARK. You are suggesting then that perhaps that this thing should be more equivalent to public education, public libraries, police protection and this sort of a social good through the general tax base, rather than for those who have testified as to how important this is and asking them to contribute something to reserve that high priority.

Mr. OWEN. I think that we should all contribute to it and I think that it is the total responsibility of our total citizenry to do that. I think that it is one that we should accept and our failure to accept that on a very personal basis is what we are basing that kind of question on now. I think that we ought to get ourselves back to a personal responsibility for maintaining our problem environmental factors and not do so through the threat of taxation or protective financial means which deny use of what really is a public resource.

Mr. LACY. Thank you. I would like to introduce the fourth member of our panel, Mrs. Beal, a member of the Eugene City Council.

Mrs. Charles Foss?

Mrs. CHARLES FOSS. Mr. Chairman and interested people, at this time I would like to refer to French Pete. Mother nature built this paradise for a purpose. It has trees, wildlife, fields, ecology, a place for outdoor people and all the things that an area of this size can contain for many people in many walks of life.

Please let us have French Pete as a memorial to the efforts of those that have tried so hard to save it and as a memorial to the name, French Pete.

It is a place for people who are interested in ecology, a place for people to watch wildlife, and the quail walk beneath your feet so that you have to lift them up to keep from stepping on them at times. The bears, the birds and other wildlife. It has green unpolluted water; air, fragrant with the scent from the trees.

Outdoor people can come here to find adventure and they find a feast for the eyes as well. This is something that can be put into pictures for sharing.

I say please help Senator Packwood to influence the people that will hold the pen to sign away to gaping areas, these great trees and please, let them stay for a refuge for children and people.

These grand trees have been putting their roots down far longer than I am about or know about, and then they live and fall to make new soil for the other trees to grow each year and keep coning and dropping their seeds so that they may take root and grow now, not after the ground has been burned over, the music of all live, the plants and trees have been destroyed forever.

Please let us have French Pete as a memorial to the efforts of those who have tried to save it, and as a memorial to the name—French Pete.

Thank you.

(Applause.)

Mr. BILL TURNER. My name is Bill Turner. I come from the logging and tree planting and right now I am a truck driver and a student. When I first came to the Eugene area, I was primarily a fisherman as far as my outdoor activities were concerned. Then when I heard tell about paving a fishing trail along the MacKenzie River, after having used that area, I had to fall back and regroup a little bit. I couldn't believe my ears.

Now, they wanted to go in there and widen out a space and put some pavement down next to that beautiful stream. But, then, of course, I was working for a lumber company at the time and when somebody talked about saving French Pete, I thought, well, there is an awful lot of usable resources up there. Since then, and that was about three years ago, I have done a lot of backpacking in the area because of the publicity, in part, and I just wanted to get out and do a little fishing and do a little walking around myself.

There are an awful lot of nice trees up there in that area that would build an awful lot of houses. Now, I have heard an awful lot of relative value judgments on esthetics as far as the ugliness of clear cut, well, I guess that it can be to some. But now, before we start throwing too many knives, I would like to point out that the standard of living that we have now enables us to see the plight of continuing in this direction.

I think that we need a little perspective and I don't think that we would be in the direction now, these people that are here today talking about the esthetics of French Pete, would have been thinking along those lines were we not in the condition that we are now in as a country.

Now, to get to this point, it took a lot of people a lot of hard work and a lot of dedication to pull us through things like World War I, World War II. Now, I don't think that our parents or our grandparents or our great grandparents had any intent of running us off the end of a deadend street.

So, I would blame the industry, but I do, however, thank them for giving me what they did in the form of a free education, all the public services and the whole part and parcel of being an American citizen.

Then I look at French Pete and I think, well, now I have heard an awful lot of industry people talking about the projected demands in housing. The projected demands in housing in the next 30 years are going to increase geometrically. We demand, the Americans demand building materials to build their houses. I was shaking my head and listening to this and saying, yes, we have got to give them the materials. This was a period from 1968–1969 and about 20 percent of the trucks from that two year period taken from the Willamette National Forest was exported. I got to thinking, that is an awful lot of work to be selling to somebody else's market. You could house an awful lot of Americans for that.

Last night I heard on the news for this last year, this 1972 period in the last three months that there has been over 6 million board feet exported and this is a 6 percent increase from last year. We are selling an awful lot of trees to Japan and Germany.

So, I thought that that kind of negates the argument of the demands for housing. So, they are as much into this propaganda mill as I was initially against aesthetic, the emotional plea that clear cut is ugly, therefore, let's not cut the tree down.

Okay, that means that there is nothing else left but jobs. Jobs are hung on French Pete. How many jobs? Enough jobs to warrant logging French Pete, putting in roads and opening up clear cut? I have almost done a 180 degrees since I have come to this area and I will have to admit that I came to the area from California. But, if we continue in these short sighted goals, in this immediate return; that is, we need to open French Pete for logging because we need the jobs, that doesn't say much for our scientific level of technology, which has also projected the inevitable standard of living for the next 100 years, if we continue at the same level of progress.

Expansion is no longer synonymous with progress. Progress happens to be something that is stability, it gives you some sort of perspective and I, myself, am glad that when I first came here I didn't go into French Pete with the idea that this area is here for my usage, my end alone. We can't run the world on man's ends alone and I don't want to bring my kids up that way either, but I think that we ought to save French Pete, just for the element of perspective. That is what I have discovered. Thank you.

Mr. LACY. Thank you. Mel Jackson?

Mr. MEL JACKSON. My name is Mel Jackson and I work with the City of Eugene as the Outdoor/Environmental Coordinator. One of my concerns is directly related to the people here in the City and their recreation opportunities.

So many times, and I can say, probably 10 times a week, people call asking for a place to go. It is becoming more and more difficult to say that I know a good place for you to go. It is more difficult later in the summer.

I have been sending a lot of people to the French Pete area. I understand the problem of Packer's Creek because I used to send people to Packer's Creek. It becomes very difficult here because the quality of the outdoors and the outdoor experience.

I think that we were talking a little while ago about putting a road into an area or else the handicapped person cannot get in there. I feel that this is basically untrue. At the City Parks and Recreation Department, we have several outings per year into the wilderness area for handicapped people and blind enjoy the wilderness to an equal amount because of their extra senses. Those with other handicaps we take them along with us. The wheelchair people even go on some of the trails. There is no reason on some of the trails that they cannot go in a little way.

I think that one of the problems is that in areas we try to make everything for everyone and this is totally impossible. It doesn't just work out that way.

We are concerned at this time with the quality of the experience and we need these areas because we are losing them and eventually the big problem is that I won't have any place to send anyone.

Mr. LACY. Do you have a written statement, also?

Mr. JACKSON. Yes. I would urge the preservation of the French Pete Drainage as part of the Three Sisters Wilderness.

I work as the Outdoor/Environmental Coordinator for the City of Eugene Parks and Recreation Department and I am deeply involved with the needs of outdoor recreationists.

We are experiencing a tremendous increase in wilderness outdoor recreation which is putting increased pressures on the existing wilderness areas.

I am concerned about the quality of the wilderness user's experience and the quality of the wilderness itself.

We need more wilderness area.

We need the French Pete Area as a wilderness recreation facility.

Thank you.

Mr. LACY. Thank you, Mr. Jackson.

Would you like to come up and join us on the panel, if you have the time?

Mr. BETTIS. I would like to ask a question of Mr. Jackson.

Mr. LACY. All right.

Mr. BETTIS. Mel, would you say then that the areas such as French Pete are going to become increasingly important to the people in the City of Eugene and Springfield, in particular, as recreational areas that are organized as city programs and this type of thing? Are we going to see an increasing need for areas like this?

Mr. JACKSON. Well, I think that it is an increase all the way around. We need to increase programs within the City to keep up with the needs there and in the process, we are introducing people to a new or almost a new way of life. Of course, they need a place to go.

In a sense, we are maybe crowding the wilderness areas through our programming, not only the City of Eugene, but the University outdoor program and all the outdoor schools that are going on. It is increasing this as a way of life. I think that it is a good thing.

People are natural creatures and they want to return out of the chaos of city life.

Mr. BETTIS. Your programs have expanded considerably in the last decade, haven't they, Mel, the programs of the City Recreational Department? In fact, were there any outdoor programs as such in the City Parks and Recreation Department ten years ago?

Mr. JACKSON. They started in 1962, just about 10 years now, and they have increased to a point where we can't keep up with our present staffing. What we are going to is an educational system, not taking them out but indicating where they can go so they can provide their own recreation program.

There is a big increase and it is being felt. I can feel it is a few times I have taken down notes about the amount of calls that I get about where to go to fish or where to go to hike and it really puts your brain to work because you can't send everybody to one place. If you do that, you are programming them right back into the chaos that they are trying to get away from.

Mr. LACY. Lew Ward?

Mr. LEW WARD. My name is Lew Ward and I live in Eugene. For many years I have hiked and camped in and around French Pete Valley. I know it and love it. I think the most inspiring view of French Pete is from Lowder Mountain on the north side of the valley. Provided one keeps his eyes firmly riveted to the south or east, there is no more beautiful view in the northwest. It is a window into the past—a microcosm of the western slope of the Cascades before the logging industry arrived. I say one can enjoy this vista provided he does not let his eyes wander westward, for in that direction they will rest on some of the most intensively logged land—ravaged is not too strong a word—in Oregon. The supporters of Senator Packwood's Bill (S. 866) feel that it is reasonable and proper to save at least one low elevation valley from commercial exploitation. This area is, after all, contiguous with the Three Sisters Wilderness; it is prime de facto wilderness, superbly qualified to be reserved for recreational use.

A decision to save French Pete from logging will not impose any hardship on the logging industry. The valley represents a miniscule portion of the allowable cut in the Willamette National Forest. It is difficult to take seriously the piteous cries of industry spokesmen when they equate environmental activism with a threat to jobs. An industry which ships 20 percent of its raw materials overseas, logs that might otherwise be processed in Oregon mills, is only incidentally interested in jobs for Oregon working men. Their protestations to the contrary are hypocritical. Industry spokesmen delight in explaining how a reduction in their harvest will worsen the need for new housing, and of course it is not easy to oppose new housing. But it is not lumber for housing which causes the problem. It is the large fraction of each annual cut which goes into the products designed to be used once and then discarded.

The container and packaging industries are postulated on persuading the public to consume wastefully. Sensibly utilized, our decreasing supply of forest resources can be stretched further than is the practice today.

I should confess that I am not really a strong supporter of Senator Packwood's Bill, which contemplates establishing an intermediate recreation area in the valley. As a frequent user of Oregon wilderness areas, I am appalled at the rate of increase of human use of the wilderness. There seems to be reason to suspect that this rate of increase is exponential with time. Any demographer knows that such an explosive growth rate spells disaster if not checked. It is a certainty that we will have some sort of rationing of the individual's privilege to enjoy the wilderness in a very few years, if current trends continue. Such heavy public demand for wilderness recreation cries out for the protection of the few de facto wilderness areas remaining.

Well, political realities seem to rule out all chance of establishing French Pete as a part of the Three Sisters Wilderness. Still, half a loaf is better than none. I urge the adoption of S. 866.

Mr. BETTIS. Perhaps I misheard you, Mr. Ward, or you have got a figure that I have never heard before. You said that 20 percent of our logs are exported?

Mr. WARD. I am not—the information that I have comes strictly from a secondary source, and that was the figure that I received.

Mr. LACY. Joseph Holaday?

Mr. JOSEPH HOLADAY. My name is Joseph Holaday and I live at 242 S. Berrigan Way, Eugene. I have lived in this area for some 40 years. My great grandparents were from Eugene and Oregon, which was extremely beautiful. I hope to leave a fraction of that after me.

Now, a number of the speakers have correctly put their finger upon the crux of the French Pete problem. It is economic. I bow to the eloquent words of numerous speakers concerning the aesthetic value of French Pete. It is a matter of the psyche, but I fear that the issue of French Pete will be determined on economic and political considerations only.

Senator Hatfield, none other, has so stated at numerous intervals, and the hearings on clear cutting in April of 1971, devoted at least a page to his concern regarding public housing, which would be, he felt, curtailed if clear cutting were curtailed.

The forest industry, without much astonishment agrees with the Senator 100 percent. And if I had the time or if anyone had the time, they could go through those hearings and detach from the records the statements of Weyerhauser, Boise-Cascade, Georgia Pacific and the others in the forest industry. They all felt that to curtail or not manage intensively, the forest of the United States and certainly those of Western Oregon, would be disastrous to the people of the United States who in the key words of one statesman were, "the havenots as compared to the haves".

With all of this, we can agree. Now about the facts, for this is the issue upon which the matter will be decided. Let me quote from one who is no enemy of the growth concept. This is Mr. Richard O'Neill, who is publisher of the O'Neill Record, a privately circulated industry publication and President of the Housing Advisory Council of New York. In other words, he is interested in building more and more.

Mr. O'Neill, in the first of this past month in Portland stated that "the greatest danger facing the housing industry today is the threat of overbuilding". He then continues at some little length in which he explains about the millions of units, not for poor people, but for affluent people. Not for low cost housing units, but for multiple resident units and then he says, "as far as the price of lumber is concerned, it is no big deal. Everyone yells about the price of lumber, but it really represents very little of the construction cost". He added that prices are going to get higher in the coming months.

Then he says, "in each $1000 of single family house construction, there is only $100 worth of dimension lumber and plywood used".

This will be translated to Senator Hatfield and Senator Packwood with the hope that they will see that there are other factors involved than just supplying the lumber.

If you raise lumber prices, and this is Mr. O'Neill, if you raise the lumber prices 20 percent, you only raise construction prices two percent. He was not including cost of land improvements, but just construction.

He further said, "mortgage amortization and taxes make half of the monthly cost of house expense, so the final result of hiking lumber prices amounts to only about one percent more in the cost of a house". One percent more if we logged every foot from French Pete.

Regarding the cost of lumber and this I do want on the record, "regarding the cost of lumber," he said, "the lumber producer has almost nothing to do with it. The U.S., Canadian governments and Japanese business men are the major influences. If we devalue the dollar and the Japanese raise the value of the yen, their export markets have been hurt, but their economic hedge in importing logs has improved their import position and hurt the U.S. logging industry".

That is the testimony of a man who is extremely friendly to the housing industry and you can see the same thing in Eugene where it is the building by the speculator and the promoter of all kinds of multiple residence units that has created something of a stir in the building situation here.

As far as the general housing situation in the United States is concerned, it is an open scandal and as George Romney says, he will finally move the machinery for justice and place the rascals where they belong, which is behind bars.

In the meantime, we hope to have a little of French Pete left to clear our minds of the mirth that has surrounded the low cost housing industry.

Mr. LACY. Thank you, Mr. Holaday.

Susan Girardeau?

Ms. SUSAN GIRARDEAU. I am Susan Girardeau and I live in Eugene. I could see as a hiker in the French Pete Creek area on a hike about four years ago, going into Lowder Creek with a group of Sierra Club members, we could look on our left and see the effects of clear cutting. We would hate to see more clear cutting and more logging in this area.

As a hiker, I say, save the French Pete Creek area for the future.

Mr. LACY. Thank you.

Mrs. Ed Sullivan?

Mrs. ED SULLIVAN. I should like to express my feelings concerning the bill being presented by Senator Packwood on French Pete. I believe that this area should be preserved as a recreation area for several reasons. First, it is easily accessible practically all year around. Second, there are very few forests left that are in their natural state and this should be preserved for other generations to appreciate and observe. Third, anyone can enjoy the beauty of this valley if they are able to walk a couple of hundred yards. Fourth, if they log the upper portion of the valley the stream will undoubtedly be ruined from silt and this is one of the main attractions of the French Pete Valley. And lastly, why does man have to touch and disturb every square inch of this land? Can't we keep even a small portion, that is not miles from civilization, free from the consequences of our dollar-oriented society? I sincerely hope this valley can be saved.

Thank you.

Mr. LACY. Thank you.

Donald Watson?

Mr. DONALD WATSON. My name is Donald Watson and I am a resident of Eugene and employed by the University of Oregon. By profession, I am an economist. The statement that I would like to read has to do particularly with some of the economic aspects of resource use in general and French Pete in particular in this State.

Before I get to that and before I forget it, I would like to respond to Mr. Bettis in his question of just a moment ago, about 20 percent of log exports. It almost all goes to Japan, Stan, and the actual figures. We exported about 2.2 billion log or board feet of log striper scale in 1970. We exported about 1.8 billion in 1971 and if you project the first three months figure which you have been hearing on the radio lately, it comes to about 2.4 billion because there is some seasonal adjustment there, some up and downs. So, that would make 1972 the highest export year.

It is a little difficult to come by the exact allowable cut figures, partly because we don't

have the private cut or I don't have the private cut. But from public land in both Oregon and Washington, it is somewhere in the neighborhood of 5.1 to 5.2 billion, so 2.2 out of 5.1 is easily 20 percent as you can see and it does figure out to around 25 percent.

Now, there are various laws, rules and regulations which prohibit the export of timber cut from public lands but I can't relate all that right at the moment.

Mr. BETTIS. Can I ask what the percent profit is?

Mr. WATSON. It is considerable. They are making or paying about $49 a thousand for Douglas Fir and selling it in Japan for $133, which I think is one of the most interesting aspects. There is also cedar, which they are buying presently for somewhere anywhere from $65 to $100 per thousand board feet and selling it in Japan for an average of $328 last year.

And if there are any other questions, I will be glad to answer them.

I support the proposition that most of the National Forest areas which could be considered for additional wilderness should be more carefully studied and at least temporarily withdrawn from timber harvest or other nonwilderness uses and I would say here that I do not particularly agree with intermediate recreation classification. The information which is offered is not directly related to a specific geographical area which might be considered for possible exclusion or inclusion in the wilderness. There is the general topic of the economic impact of removing forested areas from potential timber harvest.

The essence of the idea is that I do not detect clear evidence that setting aside any or all of the areas which could be considered will have particular adverse effect on the local economy or the areas most concerned.

The short term effect for the three to five year period while we make further decisions can hardly be adverse. The long term effect is not clear enough at this time to support an immediate decision either way.

In the interest of keeping as many options open as possible, the argument requires clear deliberation rather than reaction.

I feel that the long range planning on the part of timber industries and public agencies might improve the situation. I might say that I feel that this applies to natural gas, water, timber and others like these.

The existing management and overview of the timber industry purposes should not be expected to bear the exclusive blame for all the problems which we face.

Now, there are both public and private agencies who have gone about the situation in which the timber industry feels threatened by any reduction in the availability of raw material. But, we will not solve our long range problems by making decisions now as to whether it is to be cut or set aside.

The need to decide more clearly what potential losses or gains to private firms and the public use might be the result of adding to this wilderness area.

The assumption by industry representatives that the relationship between the reduction of allowable cut and the level of employment, income and taxes, that that relationship is direct, linear and one directional is not to be accepted without question.

The rather extended list of connections which must exist for this to be true, needs very careful examination. The evidence advanced by industry runs as follows, setting aside the areas from the allowable cut results in, first, reduction of allowable cut which will result in (2) an immediate reduction of the logs processed. This result will be (3) a reduction of labor required, and (4) a reduction of timber net earnings and this will (5) reduce the tax liability. It is also maintained that in reducing the allowable cut, it will reduce the County's receipts from the Forest Service.

Through the multiplier effect, this reduced economic activity will have about a threefold depressive effect on the local economy. These are things which are likely to be thrown about in Oregon's economy level.

Now, let's examine the points in turn. The first result would certainly come about and whether or not the Forest Service correctly ruled that any area set aside for wilderness must be left uncut, this would bring the whole law into question and I think that we have not satisfactorily solved that problem. We do not, frankly, know what sort of timber we have available.

The second effect, however, does not necessarily follow. That is, the immediate reduction of the logs processed, because this is a function of past, present and for future sale of forest service land and the volume of private timber available. It also depends on the demand for the lumber and plywood.

This alone brings the rest of the sequence under suspicion, but there is room for a further question. A reduction of labor required as a result of pure loss entering the production process is not a foregone conclusion. An examination of the historical record of the industry will show a larger number of employees 20 years ago with a lower level of logs cut.

There has been increased capital imput and better utilization of logs in the recent years. This has had a much greater impact on employment than timber harvest alone. Labor imput, may in fact, be at about the irreducible amount given the present technological state of the industry and the log cut reductions which would occur to leaving the wilderness may not result in a reduced labor imput at all.

The reduction of timber firms net earnings does not follow completely either. Net earnings are a function of many areas and variables, including rights, labor costs, capital return, inventory mark-up, price and the efficiency of the production crew. Now, of all of these only prices are directly related to the allowable cut and this can be absorbed internally by a more efficient usage of raw material. I might add that it is also influenced by the variation between what the BLM and the Forest Service allow to be taken out.

Point 5 is interrelated with point 4, and in addition it depends on the tax rate set by the State and the Federal Government on net corporate income. It is worthy of consideration but a little more complicated and I don't want to get into it right at the moment. It has to do with the tax liability, which is on the increase this year because the price of lumber and plywood is very high. Lumber, in fact, at the present time is highest on the index for any commodity.

Common receipts from the Forest Service are not dependent on the volume of the cut, but on the value. Thus, high sale prices for a clump of timber in conjunction with low cut might produce higher revenue for the Forest Service and therefore higher payment for the logging done.

It seems unlikely that a reduction in the supply of trees available for sale would result in a lower price per unit of logs. At least, tax revenue is not a function of the number of trees cut.

If all the consequences of preserving wilderness areas were to come about, that is, reduced income, employment and reduced taxes, then there would be multiple effects on the economy, but this raises the question as to if there could be other multipliers at work in the opposite direction. While the lumber and wood products were having a depressing effect on the economy, other industries which were expanding might exert even a greater multiple effect in an upward direction. This is not to suggest that reducing the number of trees cut would causally effect other industries to expand. It only suggests that a reduction in lumber and wood products activity does not mean that all others will experience only subtraction.

Other activities such as trade and services, could expand in spite of lumber and wood products declining. One possible expansion that would need to be considered would be the refurbishment of non-wilderness timber management areas. Both for more growing trees and for non-wilderness recreation. This would be labor intensive work and could provide for more jobs than the reduction lumber work, whatever it is.

There are many other aspects of the problem as to how much wilderness to preserve. There needs to be concern with further watershed management problems. The rising demand for outdoor recreation sites of all kinds, plus questions about future discounted uses of timber supply and problems related to the proper amount of return of development funds that should be applied to the wood products funds and many other questions about the lumber and wood products industry.

Some of the information is currently available and it clearly indicates that the wise course of action is to delay the decision on wilderness areas or potential wilderness areas until they can be fully examined in all aspects possible.

Mr. LACY. Thank you, Don. Are there any questions?

Mrs. BEAL. I am interested in what he said about the economic effects of logging. One of the problems that I face or that many people face, but I am on the Lane Air Pollution Authority Board, is the problems of disposing of sawdust. Now, we find that the more lumber that is being cut, the more sawdust we have to dispose of. If we are not shipping, well, if we are shipping logs to Japan, Japan doesn't want our sawdust——

Mr. WATSON. Oh, yes they do.

Mrs. BEAL. They do, that is fine, but why—

Mr. WATSON. That is why they pay $600 for the cedar because they use every scrap that is in that log.

Mrs. BEAL. But, they don't want to ship the sawdust from Eugene, Oregon, to Japan. Our shipments of sawdust out of Lane County have fallen off. This has an effect, a very direct effect on air pollution because something has to be done to that wood or that sawdust. We can't burn it all in boilers of the University or by Weyerhauser, it has to be disposed of somewhere and we are trying to get rid of it.

What I am wondering about is whether this is the relationship and a very intimate relationship between the size of the allowable or at least the allowable timber that is cut and the utilization of waste products through particle board and, so on?

Mr. WATSON. Yes, if we reduce the allowable cut or increase the price of the logs sold on public land, there would be increased utilization—if they were forced, for example, to pay $85 or $100 per thousand, instead of the average of $49 that they were paying last year for Douglas Fir, they would probably use a lot more of what they go into the woods to take out. I would even say that would work to reduce the size of the cut.

The market that exists at the present time is not a competitive market and it is subject to considerable public manipulation and I think that we ought to explore the possibility of controlling the market.

I want to make it clear that I don't advocate this and I don't say right now that we raise the price of public timber, but what I am saying is that we ought to explore the possibility what would happen if we did this sort of thing.

Mrs. BEAL. Another by-product of a heavy cut is the excess of newsprint now. You have probably seen that a Eugene Boys' Club is in dire straights financially because they are no longer able to sell their newsprint.

There is too much house fuel now and there is too much pulp material and now the bottom has dropped out of the re-cycling newspaper thing. This is another waste problem that appears to be a definite correlation or would you say so between a heavy cut and a solid waste problem that gets worse every year?

Mr. WATSON. Yes, so far as the industry and what the government statisticians refer to as SIC 24, accounts for somewhere in the neighborhood of 40 percent of all solid waste material produced in the economy each year. Mining is another big one and mining accounts for a very large percentage that would be in the area of 40 percent. Actually, household waste is very minor only about 5 percent at the most, including all the trash that you throw away for paper products. The real trash problem is in the waste products, the chips and the like.

Mrs. BEAL. Thank you.

Mr. BETTIS. Could you give me an example as I understood from some of your remarks in the latter part of your statement, it is possible for the economy of Oregon to show an upward trend in spite of a down trend in the logging industry, basically is that what you were saying?

Mr. WATSON. It would be feasible, that is correct.

Mr. BETTIS. Has it ever happened?

Mr. WATSON. Yes.

Mr. BETTIS. Could you give me an example?

Mr. WATSON. In 1966–1967, when the lumber and wood products industry showed quite marked reduction in output, mostly to the credit crunch. I can give you the figure if you want the direct figure on the reduction, but it was on the order of around 12 to 14 percent.

Then after the economy went moving along and I think that was, in fact, the year in which Oregon experienced something of a 9 percent increase in income.

Mr. BETTIS. What factors were increasing at the time the logging industry was going down some?

Mr. WATSON. Well, the manufacturing, farming and services and trades were expanding. I think that in 1967, and I would hate to be quoted on this, but I think that 1967 was the high income year for agriculture, which, incidently was relatively important to the State's economy and one which we ought to consider when we start cutting out the trees.

Agriculture is a heavy user of water and if we pollute the water in cutting down the trees, siltation in the flood plains and the reservoirs, we might lose more from agriculture than we gain from cutting the trees. Again, this is speculation and one more area which I think that we could investigate, explore and at least we would know more than we know now.

Mr. BETTIS. What about, speaking of speculation, the relationship of this kind of thing to our tourist industry, which is increasing, am I not correct?

Mr. WATSON. Yes. I have been for a long time a little skeptical of the idea the tourism produces a sizable net income in February. I would suspect that more Oregonians spend more outside the State than outsiders spend here.

I would have you compare only a week at the coast at Sunset Bay with a week in Las Vegas, or a week in New York. Now, this is obviously a very simplified sort of explanation as we don't have the figures and I don't know that we can get them. I don't think that the fact of whether we cut the trees or don't cut the trees would have much effect on the tourist trade. I don't think you would find many Californians at French Pete, but you might find an occasional stray up there.

Mr. LACY. Thank you very much, Professor Watson.

We have seven people who have asked to speak before 4 o'clock and that is 12 minutes from now. We will call them as rapidly as we can and I would ask you to limit your statements to three minutes or two minutes. If you have a longer statement to make, you might ask to be deferred if you can possibly speak after 4 o'clock.

Edward Vogt?

Mr. EDWARD VOGT. My name is Edward Vogt and I speak as a private individual and for persons who are friends of the French Pete Creek area and all the people who go to that area. We believe that the French Pete Creek area should be left in its natural condition for the exclusive use as a wilderness area. This is because such areas are in ever increasing demand for relief and relaxation from our noisy and hurried everyday life.

We feel that the money from logging will soon or twenty years from now, nobody will know where the money is and the money will be gone. But if we leave the area, it will still be there to enjoy, indefinitely.

There are many areas that have roads and campgrounds to satisfy the people who prefer to have developed recreation camps. We need French Pete Creek and many more areas to maintain a dependable stream flow.

The recent ruling by the Forest Service for permits indicates that use of wilderness areas has reached the condition where more areas should be added to primitive wilderness areas and not reduced.

Thank you.

Mrs. BEAL. Thank you very much, Mr. Vogt.

Joyce Salisbury?

Ms. JOYCE SALISBURY. I am Joyce Salisbury, a democratic candidate for state representative from District 40. I strongly urge the preservation of French Pete Valley in its natural state. One of the few untouched spots in the United States, I feel that it is our duty to protect it from the avarice of man and the saw. I am not convinced that there is a shortage of lumber in the United States as long as we are exporting logs to Japan. It is greed for immediate profit without planning for the future that has denuded so many of Oregon's hills. Somewhere people of conscience must say "Stop". This lovely valley should be preserved as a monument to nature, one place that "civilized" man has not irretrievably altered or destroyed in his wanton use of the world's natural resources.

Mrs. BEAL. Thank you very much, Ms. Salisbury.

Stanton A. Cook?

Mr. STANTON COOK. My name is Stanton Cook and I live at 1852 Longview Avenue. I am an Associate Professor of Biology at the University of Oregon. I want to speak in favor of preserving French Pete from logging at the present time for two main reasons.

First is that the need to preserve some watershed from the damaging effect of building roads, culverts and cutting out the trees, and disrupting the soil. Such watershed we need for the purpose of study in order to be able to judge the effects of our logging practices on watershed. This is one area that has been very much neglected in the scientific literature. There have been very few studies done on nutrient cycling and the effects of logging on accelerated erosion and on others such as this.

Then as you know very well, we have saved very few such streams for scientific investigation. Thus, we are in the position of not really knowing what we are doing to our watershed.

Secondly, there are a number of uses that are recognized as bona fide uses in the use concept which are incompatible. Such as it is incompatible to log the area and study it at the same time. Or to use it for certain forms of recreation and log it at the same time. It is to the multiple use concept, in my opinion, that this applies. It is particularly important that we preserve for a recreationist, for a scientist, for education and for, in fact, appreciation and study.

I think that in the years gone by and we look back at the few spots that we have saved, we will find that they are much more valuable to us over the long term than they would have been logged over the short term. Thank you very much.

Mrs. BEAL. Thank you.

Mr. BETTIS. If you could wait around for a few minutes, I would like to ask you a few further questions.

Mrs. BEAL. If you don't have to leave right away, we would like to discuss your remarks with you, Dr. Cook.

Dr. COOK. I can be here until 4:15.

Mrs. BEAL. Well, I have to call the people who have requested to be heard first.

Ken Babbs?

Mr. KEN BABBS. Well, my name is Ken Babbs and I live at Route 2, Box 267, Maple Isle Lane, just on the other side of the freeway. I am speaking today entirely on my own behalf and the issue that French Pete has raised. I understand that this transcript is going to Washington and today I am not talking just to the people here but to the audience in Washington that has the power to decide the fate of not only French Pete, but many other issues that are going to come to light as French Pete has; because I see the issue is one of a growing consciousness that is coming over this country as opposed to an old fashioned consciousness which runs the country. I am speaking now of the profit motivated consciousness as opposed to a love and sharing and cooperation.

Now, this changing consciousness has been coming on for some time and it is really being expressed here in Oregon, particularly in Eugene. Now, if we can somehow communicate to Washington that the idea of making a dollar off of something or as much money as you can make off of it, is no longer the considerations that we are living by. I personally have put a limit on my own spending of $150 a month. On that money, I am raising three kids and taking care of a piece of land that is about one acre, so I know that it can be done.

It was very interesting here today to hear the discussion of the waste material, because I think that this is one of the solutions to our problems.

The set up of the universe seems to be of all beings living off of each other. Then there is no such thing as a waste product. The only thing is man's lack of imagination and how to use the waste products. I use for a symbol all the time in thinking about these things the very item that I think has corrupted us, which is money. I only have a nickel on me today, but that nickel says, "In God We Trust". That the money is just a symbol. It is in God that we trust and when we trust in this, this piece of stuff, we are corrupting the very thing that made us.

Now, specifically French Pete is that. The trees up there, which man tried to go in and change into money. Then he is destroying something that was made by the Creator. I don't feel like this is our role in the plan.

The understanding of our role comes very slowly, but it is coming to more and more of us. Our role here is to help, to assist, to operate to make life better for one another and we know now that it is not the material goods, it is not the profit that we make that makes our lives better, but it is the way we relate to everything on the planet. That is the people, the animals, the trees and the rocks. Someday we will be living in a rock house.

Mrs. BEAL. Thank you very much.

Margaret Patoine, is she still here?

Ms. MARGARET PATOINE. I am Margaret Patoine, 2552 Alder Street, I have no technical information to add but at the moment I am the Republican candidate for the House of Representatives, so I have been talking to a bunch of people. Almost all of the people that I have been talking to are very much in favor of saving French Pete. Only one person has suggested to me that it should be used for multiple use.

Now, I would like to yield the rest of my time to Dr. Cook so that you could ask him questions.

Mrs. BEAL. I have a couple more people that I have to call before 4 o'clock. Elizabeth Shaw, is she here?

Ms. ELIZABETH SHAW. My name is Elizabeth Shaw of 1910 Van Buren.

As we have provided for more people there have been more people and many now consider the world populated and fastly becoming spoiled. Let's try not to develop the same situation in our wilderness. We will need more wilderness so that people do not further separate themselves from the true necessities of life and make themselves extinct. Man should no longer try to adapt his environment to himself but rather like the animals, adapt to nature. I too, have hiked French Pete and swam in the creek, finding all of it very refreshing.

Let's leave French Pete alone and our other surviving wilderness alone . . . man's already got his hands dabbling destructively in too many things. Life of all should be our objective, not death. Aren't there enough cities and crowds for people who want the rights, but will there ever be enough wilderness?

By logging French Pete, many human rights and resources are hurt, but by leaving the area alone, only financial rights are hurt. In all fairness and with our priorities straight, let's leave our wilderness alone.

There is a very obvious bumper sticker out now that says "Legalize Freedom", and I think that this can also apply to "Legalize Wilderness". Thank you.

Mrs. BEAL. Thank you.

Jerry L. Edin?

Mr. JERRY L. EDIN. My name is Jerry Edin and I live in Eugene. I have worked in the woods as a logger and in a mill and I just have got done with planting trees this year. I have seen what happens when you clear cut and it is just sickening to me. That is one reason why I plant trees.

I think that the French Pete should be part of the Three Sisters Wilderness area. I don't know of very many places left like that where I can go and not see the trees cut and chopped, where I can enjoy being with nature and it hasn't been screwed up by humans.

Mrs. BEAL. Thank you.

Glen A. Love?

Mr. GLEN LOVE. My name is Glen Love and I live in Eugene. I have no expert testimony at all, just that of a father and as a teacher and as the husband of a teacher. I wish to speak on behalf of my family and myself. This is in urging that French Pete be left in its natural state, with no logging, selective or otherwise, and no roads. I have taken my small chidren hiking in the French Pete Valley, and my wife, a biology teacher, has taken her classes there for field study. We both believe that French Pete is a unique area which deserves to be protected and preserved for our own time and for the future. It is a low-level virgin forest, accessible nearly all the year around. There are plenty of "managed" forests where I can take my children, but there is only one French Pete, and there are very few such low-level areas first growth forests which are available the year around. As pressures for cutting more timber increase, as our populations grows, it is ever more important that we preserve such areas for the future. Once we road French Pete and cut it, we can never restore it. Surely we can set aside one area of old forest close to the state's second largest population area for the enjoyment and spiritual health of its citizens. The notion that preserving French Pete would be "locking it up" I find particularly specious. Anyone who can walk can enjoy French Pete. Our wilderness areas are already becoming overcrowded with the many persons who are willing to get out of their cars and walk in to our lovely alpine areas. We need more such areas, especially those like French Pete which are at a low elevation and can be visited throughout the year.

Therefore, we urge that French Pete be left as it is. Thank you.

Mrs. BEAL. Dr. Cook is still here and available.

Mr. BETTIS. Dr. Cook, speaking of French Pete now as an area for scientific study, and as a total drainage area, it certainly would be, logging certainly would affect its value for this purpose; wouldn't recreational use, the kind of intensive recreational use that it is likely to get in the future equally destroy its value as an area for scientific study?

Dr. COOK. I think that there would be no doubt but what it would have an effect and I don't, myself, have a picture of how intense this recreational use would be. The large number of people being there would have an effect on the system, but, for instance, it might have very little effect or a very, very slight effect on the natural movement of the soil. The conservatively built trails would have a very small effect as compared to logging roads.

Mr. BETTIS. Then the value would continue and we would have to have massive recreational use before we would begin to do any serious damage?

Dr. COOK. I would think so, because after all, it is a very large space. This is one of the points that we have very few such large undisturbed spaces even available to study. The studies that have been carried out in the Cascades and elsewhere have been on very small watersheds.

Mrs. BEAL. Would you consider it a valuable place for scientific study of a complete drainage of that kind?

Dr. COOK. Yes, because for one reason, it is mainly forest and that would make it different from areas that would come down from a drainage area that would have a large area that is not forest.

Mrs. BEAL. What would you expect the scientific value of such a study to be or what kind of useful information would you consider that it would produce?

Dr. COOK. I think it would produce an idea of a norm of the streams and so forth. It might, from such studies, it might be possible to reckon the amount of restoration that takes place within the system.

There would be possible studies on the indigenous fauna and flora in the streams, and relate this to the rocks and trees. This is a large area of control which is being taken care of by nature.

Mr. BETTIS. You mentioned studies having occurred in other parts of the country. To your knowledge has there ever been an opportunity to even study an area this large, say over several years?

Dr. COOK. No, in fact, because the Federal resources or research priorities hasn't funded large scale studies of watersheds. The International Biological Programs are only a few years old, but we are very eager to do something of this nature.

Now, it might be also said that the Forest Service has been studying this sort of thing for a long time, it is not true. The studies have been much more limited on a scale geographically relating to techniques of planting, establishment of reforestation and the techniques of getting out the logs. Relative to organic studies, there have been very few studies of a whole range.

Mr. BETTIS. Then sites such as this very close to the University of Oregon, this will provide an excellent place for class work and so on, in the future, if it is reserved?

Dr. COOK. Yes, I would say so. Not only for the University, but for everyone in Corvallis for that matter, too.

Mrs. BEAL. That question leads right into a question that was handed to me by someone and I think that it is a very good question. It says, please ask Dr. Cook if French Pete will help maintain diversity of tree species as opposed to the management of every area on short rotation cycles?

Dr. COOK. Well, I think that it would be more a question of—well, shall I say that the species that are there I think will persist elsewhere. I think the question wants to get at representation of the different species. If it is logged and managed, let's say for Douglas Fir, this will in that area leave the plan for the reforestation as we are trying to achieve a diversity or a multiculture, so I think that is true.

Mrs. BEAL. Do you have further questions?

Mr. MEL JACKSON. We have been throwing a couple of words around here and one is uniqueness and the other is a norm. I guess the question is, is it a typical area and if you were to look at all other areas of similar size up and down the Cascades, is this of a typical type?

Dr. COOK. I find that very difficult to answer. I am not aware of any pecularities that are up there.

Mr. JACKSON. Well, is there any uniqueness, other than the fact that it has not been logged?

Dr. COOK. Well, that is right, and it has a structural uniqueness because it hasn't been logged. There is no road along one side or the other and how many areas do you go to in this State without seeing a road? There won't be many years before there will be roads going along both sides of all of our streams.

The other question was about norm. And by that I mean some measure of what might be the condition where man has not or is not manipulating. It has been said that man has been burning for thousands of years and this is true. It is a part of the human thing, the recurring fires; but the use of herbicides and the use of pesticides and disturbing things by building roads and culverts and I think that is really only corrected by glacial action.

So, if people want to find out about the effect of road building or logging, they will have to be able to say, well, look, our trees in our logged areas are just the same there as those in the unlogged areas. I think that you will agree that there is a tremendous amount of doubt throughout the whole citizenry about our forests.

It seems to me to be the Forest Service's own interest to be able to demonstrate that they are doing a good job and they can only do this if they have a norm to try it out on.

Mrs. BEAL. Are there any other questions?

Mr. BETTIS. Yes, one of the arguments favoring cutting on behalf of the industry, of course, has been the fact that there is disease in French Pete, and now just for the sake of the record, disease being a natural process, you are for allowing disease to continue there if it wants to, I take it?

Dr. COOK. Yes, I think that it is very important. This is an area that needs to be without pesticides, if you are interested in biological control. In subtler, more sophisticated or more economical means, then you would be very happy to have a place where there was some sort of natural population. Associated with those thousands of individual plants up there, there is a fair representation of the average or normal insect fauna and bird fauna and the very thing that interacts to control the insect population.

Here again, I vote for the concept of some kind of normal situation.

Mrs. BEAL. Thank you very much and thank you for waiting, Dr. Cook.

I wanted to ask now whether anybody must be heard right away. We would like to have a 10 minute recess and I would like to read you a telegram from Senator Hatfield that has just arrived. Is there anybody that must be heard right now or can you wait for 15 or 20 minutes until we can have our short recess?

Then, from Senator Hatfield, it is addressed to Roger Mellem and it says, "The testimony presented today in Eugene will be made a part of the official record of the May 25 hearing in Washington on Senate Bill 866. I am pleased to note the extent to which you have gone to insure an accurate transcript. The Senate Interior Committee will greatly appreciate your efforts.

Sincerely, Mark Hatfield, United States Senator."

Now, we will recess for ten minutes, until 4:25.

(Hearing in recess for 10 minutes.)

Mrs. BEAL. The Hearing on Senate Bill 866 will come to order.

Mr. BARRY. Mrs. Waddell ?

Mrs. ELIZABETH WADDELL. I certainly favor the idea of making French Pete into an intermediate recreational area. I think from the orations that have been given, I haven't heard all of them, but I am sure that they have been good and I would just like to reiterate on the thoughts that others have given. I would like to see French Pete saved and that is all I have to say.

Mr. BARRY. Thank you.

Mr. Brian Higbee?

Mr. BRIAN HIGBEE. I am Brian Higbee and I am a former student in wildlife. I have been working with the East Africa Wildlife Society in purchasing additional many thousand acres. It was offered by their poor government at $3.00 per acre. The people felt the real responsibility for this part of their heritage. They need a certain area for farming and economic things like that, but they also realize at this early stage that what they need is to preserve their heritage and enjoyment of the wild lands and wildlife that they have.

It sure seems funny to me that these people are making such good progress and then to look to the United States. I don't know what the problem is as this land was to be given as a wilderness. They gave the land to the Indians and then they took it back. But, once this land is logged in, it is poisoned, more or less.

These wilderness areas are a small part of the land that we have left and if things like this continue, in just a very short while people won't be able to be in these areas for enjoyment.

I might add that I was just listening to a commercial that they put out on fire prevention, forest fires and they really hit you as they say that forest fires not only kill trees, they kill other things and they show a picture of birds and other things like that.

I feel that it ought to be preserved.

I would like to voice my feelings on the possibility of harvesting the lumber from the "French Pete Wilderness Area." The lumber companies appear to be striving to turn Oregon into a lumber farm with just as much fervor and vigor as the Wildlife Department has in turning Oregon into a deer farm.

If the lumber companies continue this devastation of the woods and wilderness (don't give me the garbage on reforestation); we will have none left in a relatively short period of time.

It is time the government developed foresight and avoided mistakes instead of walking backward into a decision. This generation expects more from our leaders, just as we expect more from ourselves. I haven't much money to be an influence; just a love for a little piece of the original America which is found only in our wilderness areas.

Please save French Pete for me and my son.

Mr. BARRY. Thank you. Mr. William Peterson?

Mr. WILLIAM PETERSON. My name is William Peterson. I live at 665 Level Lane, Springfield. I am a chemical engineer in a local pulp and paper mill.

In view of the heated campaign to save French Pete, I felt obligated to check the area for myself. I recorded my experience in the valley and I feel certain the inclusion of my reflections will be appreciated.

My trip took place in late June. The sheltered upper reaches of the valley were still quite deep in snow. The therapeutic value of such a wilderness experience is almost incomprehensible—especially in contrast to the daily pressures of a busy industrialized environment.

On a Friday after work I drove the short 55 miles from my home in Springfield to French Pete. Up the trail a mile I was alone for a relaxing night by a noisy stream. Saturday I saw two young fishermen with close to their limit of trout. I stopped fishing when I had 5 fat ones. They became my delectable lunch over a small fire. Not since I've fished Eagle Creek, 40 miles from Portland, have I so easily caught fish—scrappy ones at that.

On up the trail, I came into the most magnificent stand of timber I've ever seen. Of course lumbermen want this easily accessible premium crop. The trail is in poor condition—many limbs and small trees were down after the hard winter, but it was amazingly litter-free, except in the areas where United States Forest Service surveying has begun. I made my way along an old trail toward Quaking Aspen Swamp. I stopped to gaze over a marsh; there was a big cow elk. I didn't bother her a bit. On up to the Aspen Swamp, I really lost the old trail. A new one can take the hiker up the East Fork Road. However, I chose to skirt around the southwest side, looking for old blazes when out in the swamp there were no other marks of the trail. Then out in the swamp I noticed not one but two huge bears foraging in the bushes. In 19 years that I have hiked the Cascades as a Boy Scout in Portland, I've never seen a bear, except in the zoo or the National Parks. Believe me, when it's late in the day, you're in total wilderness with no discernable trail and you come upon two bears and an elk, you know what the old Oregon country was once really like. Only a compass, some military experience and the pack on my back provided some security.

Climbing up a rock slide, I finally crossed the improved Lowder Mountain trail and came upon a plateau for a good camp with a view. The panorama into this virgin valley of French Pete is breathtaking. Again, I've never seen anything quite like it. Sunday became just as impressive through the Yankee Mountain scenic area, but the contrast between French Pete and the intensively logged South Fork of the McKenzie is strikingly depressing. If French Pete is logged then the reason for the Yankee Mountain scenic area will no longer exist. Down the side of Yankee Mountain an active outdoor group has fashioned a crude trail to link with the Old Yankee Mountain Trail up from the South Fork Valley floor. Thus, down the route I completed an exhilarating weekend hike, ending up where I'd started—approximately 20 miles. In this region there is at least one other circular weekend trip available and 4 one-way day hikes for the party with two cars. The wilderness recreation potential is tremendous.

Other circular weekend scenic wilderness trips are not readily available in the Cascades. The proximity of French Pete to the second largest population center of the state has greater wilderness appeal over the years than does high yield logging. French Pete should be allowed to be the last remaining virgin valley for the people of central Oregon and all her visitors.

If those who hear these words aren't as sensitive to the need for such remote country as I am then they won't understand my plea. Surely, both prerogatives for the use of French Pete can muster strong supportive arguments. But I have seen every square mile of this lower valley and in an objective manner, I can honestly evaluate this as a much greater asset as wilderness than as a multiple use developed area.

Please consider this evaluation along with all the other arguments that we have had here today.

Thank you.

Mr. BARRY. Thank you very much.

Mr. Allan Coons?

Mr. ALLAN COONS. Thank you. That will be a very hard speaker to follow.

My name is Allan Coons and I live at 2742 Wingate Street, Eugene. I have lived in Oregon for the four years preceding this date and before that I had lived in Eastern Oregon for a number of years. I have had breaks in this when I was in the military service and college.

I am currently chairman of the Eugene Sierra Club and am a member of some other outdoor organizations.

I am speaking here at this time primarily as an individual. I don't have a written statement now to present, but I will later submit a written statement and direct it to Senator Hatfield.

I submit that one of the important aspects of French Pete Valley is its status in this country as a museum piece, an outdoor museum piece, if you will. Perhaps 100 years ago, French Pete was not extraordinarily unique, but even then it was an intrinsically beautiful valley. There were other valleys, no doubt, which were also beautiful. When one considers the history of Western Oregon in the interim and looks at the countryside from an airplane as I have done and probably many others in the audience has done, one is struck by the lack of any extensive unbroken canopy in the valleys that haven't been invaded, either by clear cutting and/or by roading.

I know that the French Pete committee has done a survey over the Western Oregon Cascades, and I believe their figures are that there are perhaps three other valleys which are somewhat similar to French Pete in size and extent and are not roaded. One of them, of course, is protected in the wilderness area but it is not accessable by trail in its lower regions and is very difficult to get into. There is Eagle Creek, the previous speaker mentioned up near Portland and then French Pete.

French Pete as we know, unless we do something and this Bill which we are seeking to have pass, will soon be no more.

The Forest Service study, particularly the Hendee Report, which was done as I understand it, two or three years ago, and which has probably been referred to by other speakers indicates that there is a need for a type of recreational experience somewhere between the developed camp sites by the road such as are prevalent throughout the forest and the wilderness experience, where you throw your bag on the rocks near the trail.

The Forest Service, to date, has not really done a very good job in providing this type of a recreational experience. In French Pete, we have the opportunity of providing an intermediate recreational area along the lines contained in the Bill.

As a minimum, I suggest that the area should remain roadless and motor vehicles must be excluded. There can be no substantial timber harvest. It would be possible to

have campsites or semi-camp sites, that is, having some sanitary facilities and things of that type.

It would be appropriate for groups to use an area like French Pete as an intermediate recreational area. It may be that we will see or have seen the end of group use of the wilderness. The Forest Service in the Williamette National Forest and the Deschutes National Forest have done a survey on the group use of the Three Sisters Wilderness and other wilderness areas.

Indeed, wilderness areas throughout the west and probably throughout the country have been over used. The Forest Service, on this forest and in other areas, are beginning to institute permits for the use of wilderness areas. I think that we can see the day when the number of people going into wilderness areas will be limited. The likelihood is that the first hikers to be limited will be groups like Boy Scout Troops, Park and Recreation Department outings, Girl Scout Troops, and other groups like that. These people have a genuine interest in having a high quality roadless wilderness experience. Unless there is an area like French Pete and hopefully some other areas too, there will be no where where these people can go for this type of experience.

French Pete, also, I submit will take some of the pressure off the wilderness areas. Certainly being of the recreation quality and beauty in the area, it is in danger of being overused. The existence of French Pete and perhaps the expansion of development in French Pete, the recreational development, would take some of the pressure off the wilderness area. Perhaps will come the day when we have to exercise more rigorous control on access into the wilderness area.

French Pete is close to Eugene. It is within 60 miles of the Eugene-Springfield area. You have recently seen editorials and articles in the local newspaper suggesting that we may have between 4 and a half and six million visitors from out of state with us for this summer, most from California. It suggests itself to me that maybe we ought not to promote tourism. Be that as it may, whether we promote tourism or not, it seems that we are stuck in a beautiful State and we are stuck in a position where people can see that things are going to be destroyed and continue to come into Oregon in large numbers.

I think that we need an area like French Pete, which would be available primarily to local groups and to the lesser extent to tourists.

We are going to need someplace to resort to get away from the population pressures that we experience by virtue of living in this area. I think that we have got a duty to ourselves and to our progeny to maintain this area in its wilderness state.

That is all I have.

Mr. BARRY. Thank you. Mr. Thomas Drischler?

Mr. THOMAS DRISCHLER. I am a student at the University of Oregon and I live in Eugene. I am currently enrolled in a mountain hiking class, a physical education class. Last Sunday we went to French Pete and that is the first time that I had been there and I was really struck by its beauty. Today, I heard there was going to be a hearing and during my boring philosophy class, I threw together some poorly written prose on what people who would like to see French Pete logged and what kind of attitudes they must have.

On French Pete—Ah! Those hideous brown trucks seemingly reaching half way to the sky, those depressing green branches drooping over the lone, one-lane paltry trail—it's all so disgusting! A chorus of gentle scents flows through my nose and into my lungs making me want to run back to my car, start up the engine and stick my nose in the dual exhaust pipes so I can lap up some of that good old carbon monoxide.

I hate the way the trees blot out the sun. They don't do a very good job of it—there are patches of sunlight all over the forest floor, making it look like a giant pizza somebody threw up. Buildings in the city don't let any light in.

What a pain in the ass it is to hike up this trail. Walking up and down all these little hills and having to cross the creek by log bridges is bad enough, but add to that having to listen to all those different streams and the roaring of creeks and you really have an obnoxious and unendurable experience.

I've heard they are going to log here. It's about time proper use was made of this natural junkyard. This forest has been standing several thousand years too long. Oh, boy, they'll put roads in here too. What fun it will be to cruise here. I'll lay rubber over here where I've done all this sweating today. I hope they'll get rid of the damn creeks. Why, it's so clear you can see the ugly rocks at its bottom. The fountain in the Eugene Mall is so much more becoming.

Those executives from the lumber companies are all heart. People just don't seem to realize that they don't want to make a buck. It's plain to see that their motives are purely altruistic.

Mr. BARRY. Mr. Mark Rowen?

(No response.)

Mr. BARRY. Mr. Peter Murphy?

Mr. PETER MURPHY. You are a tough one to follow now, especially since I am one of those timber executives.

I am Peter Murphy and I live at 2820 City View Street, here in Eugene, Oregon.

I appear before you here today as an interested citizen, an employer in the Forest Products Industry, also as a member of the 23 member Ad Hoc Committee appointed early in 1969 by the then supervisor of the Willamette National Forest, Dave Gibney. I serve as a member of the Advisory Committee now for the Willamette National Forest and as a member of the 11 member Advisory Board on National Parks for the Secretary of Interior.

I would like to refer to our Ad Hoc Committee of 1969 appointed by Supervisor Dave Gibney. In early 1969, the Forest Supervisor appointed an Ad Hoc Committee of 23 persons, broadly represented the public interest in the national forest question. After being furnished with study results and background materials, the group met on March 13, 1969.

The Forest Supervisor presented a tentative plan of management to the committee and invited expression of opinion from each member. The Board approved the management plan as the majority view.

I have a list of the 23 members who made up that committee, and they are all my good friends, both conservationists and preservationists were on the committee.

French Pete Creek has been studied, plans developed, reviewed and revised several times. I have been involved personally through many of the above committees with my conservation friends in planning the future for the French Pete Valley. It is hard to imagine that any startling information could be forthcoming from any group at this time. To me, the conservationists, of which I consider myself a member, and the preservationists can already claim a 99 percent victory. In essence, they have all but shut out the timber industry from this beautiful valley.

The allowable cut from this 19,000 acre tract is less than 4 million board feet per year—which is only the minimum amount needed in order to protect this drainage from further deterioration, forest fire potential and thus offers only the proper management needed for the Valley.

Only one permanent road system is to be constructed into the interior of this massive valley and this is to be closed off when not in use for log hauling or timber sale development. Then it only will be available in times of normal logging use. The only permanent roads to remain open, surround the French Pete area and these are simply peripheral roads.

I would like to refer to the Oregon Senate Joint Memorial #4 that was passed during our last regular Legislative session and at that time you will find all the Lane County Legislative Delegation supported the following paragraph in this memorial: "We further urge that no ecologically disruptive logging methods be allowed for the removal of trees and no permanent or conventional road systems be built, that no roads of any kind be built within 400 feet parallel from the center line of major streams, and that any clear cutting be located, limited in size and in shape, not to impair any scenic view; that harvesting of timber be allowed only after the regional forester has held public hearings and developed a plan for such harvesting which will minimize any adverse effect on scenic, recreational, and ecological values."

Now, mind you, this memorial was signed by each and every Lane County elected official in the legislature. Our three senators and six representatives, many local conversationists, and interested citizens from the timber industry had fully endorsed this memorial.

From a point of view as a member of the Secretary of Interior's Advisory Board for National Parks, I would like to state that the present status of French Pete as planned and presently authorized by the Secretary of Agriculture is already better equipped for handling of the public than most of our National Parks—very few roads at all to be constructed—the only permanent roads, as I mentioned, are those that surround the area, and this, I believe, is a necessity. Why should we shut the motoring public out altogether? Our senior citizens that are no longer able to get around, our physically handicapped as well as the mentally handicapped who cannot go out on their own, the blue collar worker of Lane County and the State of Oregon and others who do not have the time to pack in, and others who are not interested in pure back-packing or wilderness environment. Why don't they have the right to visit on occasions this impressive Valley? These peripheral roads will offer that to them.

Four wheeled vehicles are to be banned from the French Pete Valley under the present Forest Service plan. The National Parks system backs this proposal all the way. The use of trail bikes and skidoos in the Valley are to be considered at a later date and this I agree with because already the National Park System has backed down on the destruction that they thought would take place with the use of Skidoos. They find not that skidoos is not that bad of a threat and they are getting along and they are much better than the motor bike themselves. I think that French Pete could be used for skidoo traffic in the winter.

Now for my evil timber industry point of view—some of the discussion early today and I wasn't here to hear them, but I heard comments, centered around the issue of log exports. It has been stated that by banning all log exports from the National Forest lands that we could consider a reduction in the allowable cut, and we could do away with the need of the timber the industry is fighting for out of French Pete. This is not true in the State of Oregon. The Japanese and our other foreign markets who buy our logs, if they don't get our logs, they are going to get our lumber, or plywood, our finished product, and thus remains with more pressure on the local industry, regardless of what we would be removing from the French Pete Valley. The log export volume allowed from the Willamette

National Forest now would not keep one sawmill or plywood plant in the Willamette Valley operating for a year. The Forest is now allowing only 19 million feet to be exported and I would venture to say that after 1973, less than one half this allowed figure will be exported—there simply is too much red tape to contend with and the domestic demand is already applying the pressure to the exporters. So, I personally cannot buy their argument of banning exports to relieve pressure and take care of the demands of the local manufacturing plants.

As for clear cutting the French Pete, I believe this is not a point for argument. This Committee has laid out in the Memorial # 4 and it clearly states that the public hearings would be held before any logging took place in the French Pete Valley and I don't believe that there is any committee that would accept any type of clear cutting in the Valley.

I honestly believe that we can work it out with Senate Bill Memorial #4 and that it lays out the ground work to preserve French Pete Valley. The fellow checked to see if I marked my ballot with yes on preserving French Pete and I did mark it yes. The only thing is that I am not talking about full preservation, but I really believe that what is laid before us today is a decision of multiple use in the forest in everything that the conservationists and the preservationists favor.

Thank you.

Mr. BETTIS. Mr. Murphy, although I recognize that you are not here as the representative of any individual company, could I ask who your employer is?

Mr. MURPHY. Yes, I work for a family owned company, Murphy Company.

Mr. BETTIS. You state that French Pete has been studied and I have, of course, seen also many of the studies. I am unaware as yet of any study done by an ecological team. Has such a study been done to your knowledge?

Mr. MURPHY. Yes, there sure has been such a study conducted, I think as early as 1966 and I think that it ran through 1969. During that period, the Forest Service had different teams in that area. I have not read their findings, but I know that it was released. . . .

Mr. BETTIS. Were you here when Dr. Cook was commenting on the value of the area for scientific study?

Mr. MURPHY. Yes, I was.

Mr. BETTIS. Particularly the value for providing a norm against which the effects of logging and so on, could be judged? In that, the preservation of the area could be of great value to the area, itself. He expressed the feeling that any form of construction work would certainly have extensive effects on the value of the area as a norm. Do you have any reaction to his feelings on this?

Mr. MURPHY. Yes, from what I have seen of those plans, the amount of roads is going to be such a small percentage, there are going to be so many areas that are going to remain virgin, that I don't think that what little road is going to go in there is going to destroy any norm that he might be trying to establish. There will be a tremendous area left to study, both scientific and I think from all points of view. I think that speaking from industry side of it now, that we would supply any study that would go on up there; but there is no immediate timber removal plan for the area until something like five years. It is my understanding and so they could make any studies of it for five years. I think that when this was proposed and endorsed that we had all the protection that we need to do a good job there.

Mr. BETTIS. The idea of saving an area like this for study in the unforeseeable future, even if it would hold possible benefit to the industry, would not be attractive to you?

Mr. MURPHY. Not the entire area, no. We talked about the proximity to Eugene and I talked about many senior citizens and old people that would like to come into that valley and they can't get in by foot because they aren't capable.

Mr. BETTIS. And yet he described the area as unique and that would be the factor, because of its size, and make it so valuable.

Mr. MURPHY. I support the unique factor and I don't disagree with him on that.

Mr. BETTIS. What about Professor Watson, were you here for his comments?

Mr. MURPHY. No, I was not.

Mr. BETTIS. He commented on the fact, much to my amazement and I thought that the figures were wrong, but backed it up that some 20 percent of our logs are now exported?

Mr. MURPHY. 20 percent?

Mr. BETTIS. Yes and he had very strong substantiating figures to back this up. I gather from what you are saying now that and we see the facts here that withdrawing French Pete from the allowable cut would reduce the logs availability, am I correct here, by one percent, is that correct? That would reduce the cut by one percent and yet we are exporting 20 percent? Or are these figures incorrect?

Mr. MURPHY. Under the new study done by the Forest Service, as we passed out by Senator Harden, I understand that the removal would only be some three to four million a year, which was a reduction. Originally it was around 18 million and then it was reduced to around seven and as I understand it, it was more like a 50 percent reduction from that seven million, so we are talking about three and a half million board feet a year.

My point on exports and I wasn't here for Dr. Watson, is that our company depends upon Federal suffrage for survival as many others do in the Willamette Valley and throughout Washington and Oregon do. The Government is making it so tough today to live with exports. We really aren't getting a fair shake for what was allowed under the Morse Amendment in 1968, as it was laid out. I don't know if you understand the export law, but it goes according to how far away you are from the port, by proximity. And as you know, Eugene is a long ways from the nearest port, so the Willamette has the least of any exportable footage allowed except to the south. As you go south, the Umpqua and Roseburg has less footage. The north and western part has more allowed because they are closer to the port. So, we are allowed 19,000 feet a year off the Willamette, which is the largest cutting forest in the northwest.

Like I mentioned, by the end of next year, 1973, I think that less than 10 million board feet will be leaving the Willamette National Forest for foreign markets, whether it be Japanese, Italian or German markets. Less than 10 million and that will only run the average sawmill for half a year.

Mr. BETTIS. Now, we are talking about the allowable cut from French Pete under the revisement?

Mr. MURPHY. No, I am talking about the full forest.

Mr. BETTIS. Yes, but now we are talking about the future and you were talking about a 3.4 million cut?

Mr. MURPHY. Less than 4 million cut.

Mr. BETTIS. How long is that going to run a mill?

Mr. MURPHY. About two months.

Mr. BETTIS. That will have a very, very tiny influence on the economy of the area, won't it?

Mr. MURPHY. That is right. But that brings out my point about the point of the great amount of exports today. If you use it on French Pete, I will use it on the Willamette National Forest.

Mr. BETTIS. So, really in either case, we are not going to have any great affect on the economy?

Mr. MURPHY. That is right. Either way, the import/export issue is really minute, in view of the overall demand.

Mr. BETTIS. Thank you.

Mr. BARRY. Mr. Murphy, you are talking about some concern for the senior citizen to give them some access to look at this beautiful valley so that they could be able to drive to it. I take it that you are aware that almost all of the valleys with streams in them in Western Oregon have roads beside them already, so that the senior citizens have ample opportunity to see the rivers from their automobiles?

Mr. MURPHY. The other valleys?

Mr. BARRY. That is right. The Umpqua, the little Fork of the Willamette and then you drive for miles along the Middle Fork of the Willamette and comparable country. That seems not to be identical, but you couldn't tell the difference from the car anyway, could you?

Mr. MURPHY. Well, I think it would be very impressive for them to drive up on a nice summer afternoon and see the view of Central and Eastern Oregon.

Mr. BARRY. Well, wouldn't you agree that as long as they can stagger around just a little bit, that the Senior Citizens could allow those citizens that are just a little bit more agile just one valley in this area where they could walk without any roads?

Mr. MURPHY. You are going to have a lot of that valley where they can't get to anyway, that is right and I agree with you there. They already have the Three Sisters in which the senior citizens can't get into now.

Mr. BARRY. Well, what I mean now is that people in wheelchairs would probably have a rough time going up some steep part of French Pete Valley at this time but no doubt they could see any one of a hundred streams in this area from their automobiles without having to leave their car?

Mr. MURPHY. Well, you know that they have heard so much about French Pete that they probably will want to go there.

Mr. BARRY. Well, I had not been aware of the fact that the timber industry was advertising the beauty of the French Pete, is this correct?

Mr. MURPHY. I wasn't advertising it, personally, no.

Mr. BARRY. They are quite beautiful?

Mr. MURPHY. Yes, to look at.

Mr. BARRY. Now, you mentioned that you were in favor of banning exports from national forests, is that right?

Mr. MURPHY. No, I didn't say that.

Mr. BARRY. Well, there is now a limited amount?

Mr. MURPHY. There is now a limited amount of board feet, and that is 350 million board feet from all national lands, not just the forests.

Mr. BARRY. What would you feel about the position that would not permit for export purposes the substitution of private timber to be exported and using the local timber for domestic purposes?

Mr. MURPHY. Well, I support what you are saying.

Mr. BARRY. You think that there should be a strict ban on substitution?

Mr. MURPHY. Yes, I think that there should be a strict ban on substitution, right.

Mr. BARRY. Thank you very much.

Robin Lodewick?

Ms. ROBIN LODEWICK. My name is Robin Lodewick; I am a librarian at the University of Oregon. I am speaking for the Obsidians, Inc., of Eugene, an outing and mountaineering organization with about 350 members, and for myself.

The Obsidians have supported the proposal for a French Pete Intermediate Recreation Area from the start. We continue to do so. Nevertheless we recognize the opposition from some people to this proposal, which they call a "locking up of resources", at a time when jobs are still scarce and trees are get-

ting scarcer. It has always been difficult to weigh economic needs against non-economic needs. We believe that saving French Pete is necessary from the widest economic viewpoint and we will try to show this.

The Obsidians schedule several hikes each year into the French Pete watershed; our members go there at other times, and some of them joined the Sierra Club in developing the Yankee Mountain trail, down into the valley, for the Forest Service. Like many others in the Eugene area, we find French Pete close, low enough to be free from snow most of the year, and very beautiful. Anyone who returns to the acrid smog that fills the Willamette Valley in summer knows that the hours spent in the green oasis of the forest have been more than "mere recreation", they have been givers of health and sanity.

This is a need for, and use of, the forests that will increase as our cities grow. People are overcrowding the wildernesses, to the extent that permits are to be required, from now on, for going into them. Recreational use of all kinds, in the forests, is increasing each year, just as the logging of the forests also spreads to more land each year. Where the two needs are compatible, this causes no problem. Wilderness, however, vanishes when trees are cut. Lumbering and wilderness are two of the multiple uses of forest which cannot coexist in the same place. Either we set aside more wilderness, or semi-wilderness, now, to fill the need for it, or we turn wilderness seekers back to picnic areas and city parks.

An intermediate recreation area, such as Senator Bob Packwood's bill proposes for French Pete, can do just this; provide semi-wilderness, where more people can come, more of the year, and yet do less damage than in the high mountains with their frail soil.

When the Three Sisters Wilderness was set up, the low-country forests on the west side, which had been part of the earlier primitive area, were removed. There was less pressure for other uses of the forest, then. Now, when we take the short trail to Lowder Mountain or to Olallie Lookout, and look across the unbroken green cover of the French Pete Valley, we know that it is the only place we know of where we can see Oregon as it used to be.

In response to protest, the Forest Service has changed their first logging plans for French Pete; they will let logging roads return to forest, leave tree strips along some stream beds, and cut in irregular shape patterns or patches; on the steep slopes they will wait for improved techniques, perhaps balloon logging, before they cut. These changes are all worthwhile; would applaud them anywhere. They do not, however, save the unique values of this basin. French Pete is one of perhaps six low-level valleys in Oregon, which are not yet logged or roaded. If it stays uncut for another two years, it will probably be the last uncut valley.

Anyone who is worried about his job or his business is going to fight anything that he thinks threatens it, and no one can blame such a reaction. Yet all of us should remember that automation of removing more forest jobs each year is more than the loss of the French Pete cut would cause, in the one year when it occurred.

There is a sort of desperation on the side of some of the preservationists also, which helps make this question a more painful one than whether we can afford to not cut a few acres of trees. Some of us see not our livelihood, but life itself, the life of nature and eventually that of man, under threat of the technological changes we have launched on the world, with their too often unforeseen effects. Wilderness, to such people, is not merely a symbol of opposition, it is an actual force opposing pollution.

We would like to suggest that there is another argument to apply to the question of French Pete, besides these deeply emotional ones that we have been talking about; a reason which perhaps can unite both the economic and non-economic sectors.

The increasing pressures on all our natural resources, public and private, due to increasing demand for both lumber and recreation, both dams and fisheries, both power and clean air, can be met only by a more intensive management of those resources.

With the Forest Service showing the way, all timber lands must eventually be managed so that every acre is used most efficiently. Culls will be taken out as chips. Cutting will be followed by replanting or even-aged, single-species stands using improved genetic strains. The trees will be harvested at the peak of their growth, at 60 to 80 years when they are still small compared to the trees we know. (I might add, in reference to the advertisements which have appeared in Oregon recently, opposing wilderness and praising Swiss forestry, that I once had an opportunity to see a Swiss forest. It looked exactly like what it was, a farm crop. Straight rows, no twigs on the ground, not a leaf of undergrowth. Probably it was well managed.)

Fertilizer will be used in our forests in the future, and insecticides. And yet, will all this be enough as nutrients are used up or lost to erosion? In 1967, I believe, at hearings in Salem, I was deeply shaken when I heard a research forester for the Siuslaw National Forest state that second growth forest can never match first growth, nor third growth match the second growth. How long, then, will we have any forest? Will we be able to stop the deterioration? Natural forests do not deteriorate. Can we learn from them, in time?

This forest management of the future is the same sort of management that has produced the "green revolution" of today in wheat and rice, and it presents the same dangers. Agricultural experts are worried, I have heard, about our dependence on a few strains of food crops. They say we must keep the full genetic reservoir, the worldwide stock of food species from which these high yield strains have been developed. Without that, our crops may be wiped out by disease. With it, we can go on experimenting, and breeding new varieties. The same truth holds for all the genetic resources that our generation inherited. We are in danger of destroying them, and we will be in grave danger if we do destroy them.

We must be afraid of a world where species are wiped out. We must be afraid of a world where soil fertility deteriorates. Our safety lies in keeping, in each biotic zone, a reservoir of species, of soil, of unchanged ecologic networks; those things that cannot be restored, in any way, by humans, if they are once lost.

In pioneer times, in bad winters, starving people sometimes ate the seed corn, which they were keeping for next year's planting. Then they starved, to death, in the summer, if no one else could bring them seed. The forests, today, are our corn; some must be kept for seed. There is no one who can bring us more, if we lose the seed.

Biotic reservoirs are the most basic need man has today. They are an economic need, a scientific need, a need that we all share, as we share life itself. French Pete can be such a reservoir, for all of us, if it is saved.

Thank you.

Mr. BARRY. I have eight persons who have indicated a desire to speak. We would like to close this session at 5:30, therefore will you please limit your remarks to two minutes and give serious thought to perhaps returning this evening, especially if you feel that you would like to make a longer speech.

The evening session starts at 7:30.

Scott Pressman?

Mr. SCOTT PRESSMAN. I just kind of came over here without anything to say but I am just involved with hiking and Oregon and have been for all of my life that I have lived here. Coming back from trips in the East, I come down in Portland and from Portland by plane. When you fly over Oregon from Portland to Lebanon, and you look down and the place looks like a big chuckhole, where it has been cleared. It seems to me that it is not very easy anymore to go someplace in Oregon and find some clear virgin land, that hasn't been destroyed by loggers or roads or whatever.

There are very few valleys the size of French Pete left anymore. Three, I guess and it is a shame that we should have to use up all of our resources or to manipulate all of our resources in the present without any anticipation or any looking forward to what future generations are going to have to put up with.

Most of the wilderness area in this State is land which is essentially unloggable. The timber is worthless to the timber industry and it is not good, straight lumber.

It seems a shame that you can't have someplace where it is easily accessible where the forest is virgin and the trees are like here what Oregon used to be like, back a long time ago. It seems like the future generations should have some idea of what Oregon was like.

Mr. BARRY. Thank you.

Pauline Lee?

Ms. PAULINE LEE. Pauline Sandoz Lee.

The expressed leadership of the industry, as I hear it from the last Oregon Logging Congress, is that the power structure of the industry is going to decide what use is going to be made of our Earth's natural resources. The industry expressed the concept of the growth-oriented political economy, but one which is actually unable to distribute goods and services justly even to our own citizens.

The impact statement of moving a timber economy into another type of economy has not, I believe been aired publicly. The kind of thing I think necessary is a review of a timber industry economics seminar I recently attended. The seminar was conducted by Stuart Rich, University of Oregon. The seminar tended to destroy myths lumbermen hold dear regarding: (1) "jobs will be destroyed if we don't have trees to cut", and (2) the necessity to save those old rotten giants of trees by cutting them on economic grounds, when in truth, in no way is it economical to pass by good merchantable stands in order to reach these old trees.

Actually, whole areas of trees such as the Rocky Mountains should not even be cut according to Barney Dowdle, Forest economics professor at University of Washington.

There has, I feel, been too little study of land-use problems. I feel, the timber industry, with its great power of inter-locking directorates has been stampeding the people into rash action—for profit only—with little or no regard for the necessity to ration finite earth resources.

Without even this kind of study, right now, better logging methods would save not only French Pete, but other areas as well. USDA Forest Service research, Portland, Oregon states that half of the tree is left in the forest.

Thank you.

Mr. BARRY. William Johnson?

(No reply)

Mr. BARRY. Kenneth Hertz?

Mr. KENNETH HERTZ. I have prepared a full page but it will take more than three minutes.

Mr. BARRY. Would you like to take a few minutes to summarize?

Mr. HERTZ. No, I couldn't do that.

Mr. BARRY. All right, you may submit this for the record then.

Bernt Hansen?

BERNT HANSEN. It seems to me that when we are looking at issues like French Pete and looking at the local impact, we are either going to think in terms of the economy of the bill and its very real national impact. The press is on. The need for areas of recreation is becoming apparent. Those places that have been set aside in other states, the more populous areas, are becoming more crowded and the National Park System is a good example. It seems to me that our parks are the most beautiful and ecological and environmental sacred areas and because they are so rare, they have become popular to the point of overpopulation and they will lose their charm.

So, we definitely need more areas for recreation, where people can shove off the pressures of an urbanized society.

In Oregon we have an abundance of such areas. The problem is that we have to determine the terms of national priority. We also have to think in terms of the future of Oregon and whether we are going to put all of our chicks on the timber industry or whether we are going to try to diversify and encourage tourism. Tourism is certainly a growing industry in Oregon, besides we have made mistakes and they lie solely in the few pockets in the preserved pristeen areas. We are going to go the same route that they have gone.

So, I think that we must just think in terms of the future and we must realize that if we act now or opt now for cutting, we are only prolonging the inevitable. That within, maybe a generation, maybe sooner and maybe later, we will be still at the point that we are now with the timber industry screaming for more timber, but we won't have that great abundance of timber that we do now. So, the question is whether we meet the challenge now and we realize what our priorities must be. We must tighten our belts now so that we can support an ecenomy and the demand for timber that could be handled by areas that are under private cultivation or areas that lend themselves to cultivation that are now part of the national timber land.

I am not saying that all timber on national timber lands should be preserved. I am saying that we need to look at a concept that will work through all the options of the Forest Service's multiple use concept.

We are not also feeling some pressure of limited laws. We have a national law that will allow us to define certain wilderness areas, but the definition of the wilderness areas is so restrictive that it actually places a burden upon anybody that would like to preserve something that is not quite a wilderness area. That is the purpose of the bill that is before us, because it defines a new definition of an intermediate use area. It will be a pilot project, I feel, that will follow with a strong national law that will define wilderness areas and intermediate use areas.

So, I am for this bill and I hope that we will find a means by which nationally built Forest Service land can be preserved in its system that is not as restrictive as a wilderness.

Mr. BARRY. Thank you.

J. K. Dohnal?

Mr. J. K. DOHNAL. My name is J. K. Dohnal and I am a structure engineer working for Steel Structures, Incorporated, here in town. Six years ago I have defected from Communist Czechoslovakia and I came here to express today that I do not understand you Americans at all.

For I don't know how you can even argue about things like preserving the wilderness in your country. When I go to the cemetery near where I work, there is a grave that says, when this person moved into this area there was only one family living where Eugene is today, and that was about 150 years ago when people were pouring to your Country. That was when your Country was great and the spirit of your nation was great. I am here also to say that I believe with the philosophy that everything in the world is connected with everything else.

This picture behind you expresses or reflects the will of the United States of today. Growing, buildings and construction everywhere, swimming in some hideous color and the sky of smog and smoke so that you can hardly see the sun. Yesterday, Alabama Governor Wallace was shot. Robert Kennedy was shot a few years ago, and President John Kennedy. Those are moments when I feel afraid to live in this Country. I have left my Country because it became unliveable, but I must say that in my Country, have I seen environment being as squandered as I have experienced here.

(Applause.)

Mr. BARRY. Thank you very much, Mr. Dohnal.

John Frohnmayer?

Mr. JOHN FROHNMAYER. My name is John Frohnmayer and I live at 1975 Olive Street, in Eugene. I am a life long resident of Oregon. Over the span of the 20 some years that I have lived here, I have gone to school and I have gone to valleys that I once knew to be uncut and have found them to be clear cut and scarred by roads.

Each time I just feel that a little bit of my experience has died and something of me has died with that valley. When I have been away from Oregon, I have found that as I grow there, I grow restless missing the mountains and missing the wilderness that is available in this area.

So, I think that I know what it means to say that there is an experience in the wilderness and it is an experience that can't be duplicated and cannot be fabricated artificially. So, I am putting in my small word today for preserving that vista where one can look carefully across the valley and see no semblance of man, no symbols of man, no roads, no logging, nothing other than what was naturally there. I think that we must preserve this experience and I certainly hope that we can.

Mr. BARRY. Thank you. Mr. Mellem tells me that Mr. Frohnmayer was the 75th speaker of the day. Let's try to 76 and then wrap it up this evening.

Janelle May?

Miss JANELLE MAY. My name is Janelle May and I am a student at Oregon State. I came down to say that I am in favor of this Bill. In one of my classes that I had two terms ago, we are studying the Department of Outdoor Recreation under Stuart Udall. But one of the main things that caught my mind was that it said that they were going to preserve wildernesses for the future. It said that in 1970, that if the industries keep on cutting the timber in the wilderness areas that we have now, there will be no wilderness areas by 1980, which is just eight years away. It is scary and I think that we should support this Bill.

Mr. BETTIS. Miss May, you came down from Corvallis which is about 40 or 50 miles to the north of here.

Ms. MAY. Yes.

Mr. BETTIS. Would you have any possibility of going to a hearing like this in Washington, D.C.?

Miss MAY. Going to a hearing?

Mr. BETTIS. Right?

Ms. MAY. When, on the 25th?

Mr. BETTIS. Right?

Ms. MAY. If I could raise the money, I could go.

Mr. BETTIS. Well, it just struck that we have been here listening to a lot of wonderful people who have been able to come here and speak who absolutely could not have gotten to Washington, D.C. and who have said a lot of valuable things.

Mr. BARRY. It is now a little past 5:30 and if there are any persons who would like to speak and for whom it would be a great hardship to return this evening we could take two or three more.

Mr. HOWARD BONNETT. My name is Howard Bonnett and I live at 775 E. 22nd in Eugene. I would not be back tonight but I will keep my remarks short. I was on French Pete Creek this weekend and I feel very strongly that the Three Sisters Wilderness area should be expanded and that French Pete Creek should be included in the wilderness area. Also that the wilderness area should be protected by the bill that is going to be heard in Washington very shortly.

I know that all the arguments that I think can be developed and they have been expressed, although I haven't been here all day. I must though point out that there is going on still an enormous export of logs from the Pacific Northwest and we are essentially behaving as an undeveloped country. I think that any arguments by forestry representatives that they need the timber for building homes in the United States and they need the timber for jobs or anything else like that need to be dismissed because they are not utilizing the logs that they are cutting down here at the present time.

Just in the figures for January, Washington and Oregon exported 150 million board feet to Japan. This is out of a *Register-Guard* article on March 21, 1972. Twenty-five percent of this was Douglas Fir and there is no reason at all to export this as it is very easily utilized here.

I think that the amount of reduction in cut that would be lost by preserving French Pete bears no semblance of relationship to the value that it would provide for our generation and future generations to preserve it.

Thank you.

Mr. BARRY. Very well.

Mr. THOMAS O. MILLER. Could I just file my statement then?

Mr. BARRY. Yes, you may.

Mr. ELIASSEN. I would like to file my statement also, my name is John Eliassen.

Mr. BARRY. Very well, the afternoon session is concluded and we thank you all very much for coming. We will convene at 7:30 in the evening.

(Meeting dismissed at 5:35 P.M.)

TESTIMONY TAKEN IN THE EVENING SESSION

Hearing held in Eugene, Oregon, beginning at 7:30 p.m., Tuesday, the 16th day of May, 1972, in the City Council Chambers, before: Ms. Nancy Hayward, Chairman, Hans Linde, John Strong, Art Johnson, Bill Wyatt.

Mrs. HAYWARD. This hearing on S.B. 866 will come to order. Good evening, ladies and gentlemen. I am Nancy Hayward and I am going to be the person that manages the traffic in tonight's discussion about the French Pete Creek area. If you are interested in making testimony tonight, would you please make certain that you have signed up out at the desk in front, and we will be glad to hear you. We will be here as long as there is anyone that wants to testify. We will be glad to hear from anybody. Some of us might want to ask questions of those who are going to testify, any of us up here might and perhaps some of the people in the audience might want to also, but at any rate, if you will just wait for a moment at the microphone and give us a chance, we will be glad to have an opportunity as we might want to ask questions.

The first person this evening who has signed up to testify is Sue Blix from the Eugene Parks and Recreation. Sue?

Miss BLIX. My name is Sue Blix, but I am representing myself.

We are all aware of the fact that logging is important to our economy. But we are also aware of the fact that more people than

ever before are becoming aware of the importance of preserving some portions of the natural environment for purposes of study and recreation. "Man does not live by bread alone." More and more people are discovering the joy of getting into the out-of-doors. It is ironic that at a time that there are more people wishing to go into relatively untouched areas for a few days or even a few hours of experiencing and observing nature, there are fewer such areas available.

We observe serious overcrowding in our wilderness areas at the same time as many lower elevation trails are being bisected by logging roads, clear cut over, or even replaced completely by roads. Many people who visit the high country would be just as happy hiking in lower elevations if they could be assured some qualities of the wilderness experience—such uncut hillsides and clear, pure water. It is for this reason that many of my colleagues and I favor the intermediate recreation concept for French Pete.

In my capacity of supervisor of outdoor and environmental programs for a municipal parks and recreation departemnt, I receive numerous inquiries about places to go and am faced with a constant need to find areas to send our own groups. Much of the high country is accessible to hikers only about two and a half months out of the year. But Oregonians are year around ' ikers. Many of our favorite lower elevation areas have been ruined for hikers by clear cutting practices. Just this year, for example, I have discovered this to be the fate of the Packard Creek Trail, Hardesty Mt., Tire Mt., and Cowhorn—all nearby and accessible much of the year. Please don't let French Pete be spoiled too.

As for the argument that roads are necessary to prevent loss by fire (many of which, by the way, are caused by road building and logging practices), recall Big Lake Fire of a couple of years ago. Here is an area practically encircled by roads, yet the fires raged for many days. A shift in the wind was finally the deciding factor in bringing the fire under control. There are other methods for fighting fires, including the dropping of retardants by plane.

There are many arguments that could be waged in favor of saving French Pete. However, I'll close my remarks with a question: Is it any wonder that many of us have become disillusioned with the whole system when so many of the decisions that affect us so deeply at the local level are made by people somewhere else?

I'm talking about decisions such as those regarding the areas near and dear to us, like French Pete, whose future is being decided by people who have never seen at first hand the natural beauty that so many of us Oregonians have worked so hard to preserve for all Americans.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Strong, do you have a question of Miss Blix?

Mr. STRONG. Would you venture any guess or educated opinion on the amount of use that the French Pete area has now which would be lessened by this bill?

Miss BLIX. I probably could come pretty close. Specifically, someone has some records, someone has kept some records, I am sure. I know, personally, that they are used, the high meadows are used very much. One can tell by the number of cars that one sees in the parking lot down there. This situation is not going to lessen—I am sure that it will increase. Of course, if this area is lost, or if it is closed, of course these people will walk farther, but they will find a way to get in there.

Mrs. HAYWARD. Thank you very much, Miss Blix. We all appreciate your coming.

I must really confess to not having served my role very well in some instances, and by, especially, in not having introduced the rest of those people who are sitting as Hearing Officers here during this evening's hearings. So, may I start out by introducing Professor Strong, who is from the Law School, on my far left, and then immediately next to me is Mr. Arthur Johnson, who is an attorney in the City of Eugene, and on my right is Mr. Wyatt, who is the newly elected Student Body President at the University of Oregon.

I apologize—that was not very good of me.

Is Mr. Edminston here?

Mr. EDMINSTON. Here I am.

Mrs. HAYWARD. Mr. Edminston is our next witness. Mr. Edminston.

Mr. EDMINSTON. My association with the French Pete area goes way back. My family pioneered that country and area in the early 1900's. They built many of the fine homes in that area—my grandfather did that. My mother in the 1920's had ridden horseback all through there and we vacationed in there every year. We would hate to see it logged and we would wish to preserve what we now have up there. If it were logged, it would be different if it were reforested properly, but once an area like that is logged, they put the operation in the hands of tree planting contractors, and it is generally considered a waste of the tax payer's money because at least 75% of the trees that are planted never come up. They are under a contract to get so many trees planted in so much time—they are under a time limit—they have to get so many trees in the ground or else they lose their contract and their money.

I know this from personal experience and I think that we would just ruin this valuable area as a recreational area and it would just be a scar on the country side for many years to come.

Mrs. HAYWARD. Thank you, Mr. Edminston. Are there any questions of Mr. Edminston?

Mr. JOHNSON. You mentioned development of the land, and I assume that you mean the McKenzie Valley?

Mr. EDMINSTON. Well, I meant all up and down this beautiful country.

Mrs. HAYWARD. Thank you.

Robbie Smith?

Ms. ROBBIE SMITH. I'm concerned with the ability of the Forest Service to operate French Pete as a "multiple use" forest area. I realize that many citizens maintain their income from the harvest of timber. However, it is obvious to anyone who has involved himself with the forestry issue that parts of our forest have been abused by bad logging practices, which have not only left ugly scars upon the land; but have harmed the wildlife that you find in the forest. These damaging practices can be replaced with conscientious forestry through a reordering of priorities in the timber industry.

According to the law, "multiple use" forests are supposed to fulfill six functions: recreation, watershed maintenance, wildlife preservation, timber production, grazing, and mining. However, if 20 percent of the National Forest Service's $500 million budget for the 1971–72 fiscal year goes to timber production while only 8 percent and less than 2 percent go to recreation and wildlife management respectively, then the emphasis cannot be on multiple use but on timber production. Without equal funding, recreation and wildlife fall far behind timber production.

The Forest Service assures the public that French Pete will be set up as a multiple use forest area. From the above information, it is only too obvious that this type of use would be and bring the destruction of French Pete as we know it today. Why should Oregon have to sacrifice one of its last remaining virgin forests to the system we now have and risk destruction of irreplacable resources through possible mismanagement?

Mrs. HAYWARD. Thank you, Ms. Smith. If you have a copy of your testimony, we would appreciate getting it.

Are there any questions of Ms. Smith?

(No response.)

There have been two other gentlemen who have joined us at the table, Professor Barry from the Law School, on my far left, who is most singularly responsible for these hearings that are being held, and Professor Linde, from the Law School, who is on my immediate right.

Mr. Ray Smith?

Mr. RAY SMITH. Whenever Oregon's logging economic future is in jeopardy because of 19,200 acres in the French Pete area; cut it.

Please see if you can find some way to keep Oregon loggers alive without cutting French Pete.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Smith.

Does anybody have any questions of Mr. Smith?

(No response.)

Now, Thom Nelson.

Mr. THOM NELSON. Oregon's economy is largely based on the timber industry and our lives depend on timber products.

Sixty percent of all public timber lands logged in the nation are done by clear cutting. It would be easy to assume that the French Pete area, if logged, would also be clear cut since economically, clear cutting is the best method for logging.

When driving through timber lands in Oregon, it is hard to find a scenic area that has not had some logging done around it. Last summer was the first time that I hiked up French Pete Creek. I appreciated being able to hike all day in a virgin timber forest and not see where selected portions had been logged.

Why should the Oregon Timber Industry need this valley to log with all the other timber lands still available to them? There are a few areas in Oregon that have been set aside solely for recreational use by man. I believe that the French Pete area should also be preserved as a natural wilderness for man to visit.

Mrs. HAYWARD. Thank you, Mr. Nelson.

Does anybody have a question to ask of Mr. Nelson?

(No response).

Thank you very much.

Esther Leong?

Mrs. LEONG. In the Western Cascades there are 70 valleys of 10 miles or more in length. About thirty years ago, virtually all of these valleys were untouched by roads and large scale logging. They were perfect examples of ecological balance and magnificant retreats for those fortunate enough to know them. Now there are only three such valleys which have not been opened to logging through roads. Of these, Separation Creek is protected by inclusion in the Three Sisters Wilderness area: Eagle Creek is presently under study by the Forest Service, but has been rejected for inclusion in wilderness areas; and French Pete is now threatened by roads and logging. The terrible irony of this is that French Pete is a unique area which is near a major population center and easily accessible to people of all ages; and yet, this place, too, the Forest Service is willing to give to the loggers. Having seen 67 major valleys in the Western Cascades given to the loggers, it would seem that the Government has a responsibility to reserve two or three for those citizens—taxpayers and voters—who prefer nature roadless and machineless.

I am concerned that French Pete be saved not so much for myself but for my children and their children. At least I can remember what it was like to walk through forests which were unviolated by roads or machines, by cans, bottles and garbage. But what will be the situation for our children and grandchildren? It is hard enough now for them to find such untouched areas that they, too, can have such humanizing and ennobling

memories. Considering future pressures of population for recreation areas, the present radical depletion of our natural resources, and the consequent need for a re-evaluation of our whole lifestyle, we should really be considering a moratorium on any further road building in our national forests, rather than whether to road and log French Pete or not.

French Pete must be saved. This is not merely a statement of environmental convictions; it is also a statement of political necessity.

Mrs. HAYWARD. Does anyone have a question of Mrs. Leong?

Mr. BARRY. You are familiar with the French Pete Creek area?

Mrs. LEONG. Yes.

Mr. BARRY. How long does it take to get there from Eugene?

Mrs. LEONG. Oh, 45 minutes, 44 minutes or maybe an hour.

Mr. BARRY. Do you know—well, I am just asking you these questions to complete this record on the subject—do you know what proportion of the population of Oregon is within that distance of French Pete—how does it rate with other areas of Oregon?

Mrs. LEONG. I understand that Eugene is the fastest growing population in the State of Oregon.

Mr. BARRY. That could be if we only had two persons and grew to five the next year—it is also the second largest population center in the State, isn't that right?

Mrs. LEONG. Absolutely.

Mr. BARRY. How far would it be from Portland, say?

Mrs. LEONG. It would be about——

Mr. BARRY. In travel time, I mean?

Mrs. LEONG. I think that it would be about three hours, I imagine.

Mr. BARRY. So I think that about 80 or 90% of the population of the State would be rather close to this area, isn't that right?

Mrs. LEONG. You can get to it very rapidly, too, from the large population centers, yes.

Mr. BARRY. So that means, if somebody wants an outing for a day in a forest, in a relatively untouched area, they could come to the French Pete area, isn't that right?

Mrs. LEONG. That is most important—it is such an easy area to walk through, so that means that even older people unfamiliar with such an area can go into it—if you are unable to take a hard hike—it is so easy for anybody to go through parts of it.

Mr. BARRY. Have you ever seen any real small children up there?

Mrs. LEONG. Oh yes, my own.

UNIDENTIFIED QUESTIONER. How far would you drive in one day to get to a wooded area?

Mrs. LEONG. I wouldn't think anything about driving to French Pete. I don't think that I would drive it in the winter time if French Pete were a long ways away.

UNIDENTIFIED QUESTIONER. Why would you go there? Is it just a day's travel or would it be more for some of the people?

Mrs. LEONG. The trouble with that question is what is a wooded, wilderness area? You go to a wilderness area to get away from people in some respects—of course, there are a few people there, but you can see the wilderness area the way it was a long time ago. I go to a wooded area to see it and I am sure a lot of other people do, too.

Mrs. HAYWARD. Any other questions?

(No response.)

Let me remind those that have come in since we have started, and if you wish to give testimony, you should go out there at the desk and sign up and then you will be called up here, and we will certainly be glad to have you testify.

Mr. Ewart Baldwin is the next one. Is he here?

Mr. BALDWIN. Here.

Mrs. HAYWARD. You are next, Mr. Baldwin.

Mr. BALDWIN. I am speaking in support for the efforts to preserve French Pete Creek drainage in the Western Cascades of Oregon. French Pete Creek is one of the very few streams still in its relatively unscarred native state. It represents a forest and plant ecosystem that is not adequately represented in our Wilderness areas. As a geologist who has seen much of the Northwest, I feel that French Pete Creek should be preserved in its natural state. I believe that there are values—I realize there are values in timber, but I believe that there are also values that are very hard to define in terms of money in the unspoiled ecosystems that can give to both ourselves and our future generations. I therefore think that it is very imperative that we save French Pete Creek Valley for our future generations.

Mrs. HAYWARD. I think that you are the first geologist, at least, to my experience that we have had testify today. Perhaps there are some people that have some specific questions to ask you—Mr. Wyatt?

Mr. WYATT. As a geologist, what do you consider to be the finest features of this French Pete Creek area?

Mr. BALDWIN. Well, the plant life, I think is more important than the geology of the region up there. The geologist, of course, is interested in it as a part of the Western Cascades, but the rock will be there still, even if you log it all off, but it won't be there in exactly the same form. But as a geologist, I would put much more emphasis on the plants and animals living there, and the interaction produced, and also the human values. I think of that as a geologist, and that is what I would be more interested in.

Mrs. HAYWARD. Thank you. Mr. Johnson, you have a question of Mr. Baldwin?

Mr. JOHNSON. In that respect, Professor Baldwin, you can see in the valleys, very clearly the patterns of erosion and the rocks that must be of interest to study, but isn't there also some value other than just recreation value for future students to be able to to see a valley like French Peter with its aesthetic value, where there have been a pattern of a development of a valley with heavy flora or any growth during that time—I assume that it would be some different pattern of erosion that would be of interest, isn't that a fact? There would be some scientific interest to the value, at least to early students of geology, at least they haven't been able to see a valley of that kind—isn't that so?

Mr. BALDWIN. Well, I would agree that it is an excellent example of erosion in the Western Cascades. I can't say that it is much better than some of the other creeks in this particular instance—it is a good example, but I would still make my point on the human values, my plea on the human values and the interaction bargaining going on there. I appreciate the outdoors and I appreciate the beauty and the nearness of it, approximately of the outdoors, and as I have mentioned it is a representative of a forest and plant ecosystem that is not adequately represented in our Wilderness areas.

Mr. JOHNSON. It seems to me that since they have logged all other valleys, essentially, that there will be increasingly so in the generations to come, significant changes in the valleys. You know if there is logging in a valley, even with the latest techniques, that there is considerably more erosion and changes in the soil than they originally contemplated—isn't that so?

Mr. BALDWIN. Oh, yes, that certainly is true—and the soil, you can do a good job of clear-cutting, and we are hearing of more and more what some timber men call slew cutting, and when it gets into the streams it forms artificial dams and temporary dams and such, and then the whole thing does go down. Just this spring, I have noticed more slew cutting than I have ever seen in any one year. I think this winter it happened on Nose Creek just this winter.

Mr. JOHNSON. I think that there were two right on the McKenzie Highway this year, were there not?

Mr. BALDWIN. Yes. Clear cutting definitely menaces the soil which slew cutting doesn't seem to do, anyway as yet it hasn't shown it. Yes, that is very true.

Mr. JOHNSON. But I was thinking, if you have any kind of separate, aside from slew out, if you have any kind of logging, you have some change in the soil structure in the valley, and then some, obviously, in the plant life in the valley, and isn't that as valuable to the student and unique for the student to see one valley that hasn't had that—hasn't it been contemplated by the scientists that there are many things in that valley that they haven't yet discovered and may not yet for another decade or so?

Mr. BALDWIN. Yes, of course—under the definition of ecology, you have organisms in the environment, but you can't upset the physical setting with like clear-cutting and the like without upsetting the habitat for everything, for the plants and animals.

Mr. JOHNSON. So, in that respect, it has an additional recreational value, if it is one of the last valleys of the kind, it is rather unique then I would say.

Mr. BALDWIN. Yes, I certainly would agree with you and would hope that it would stay with us for a good long time for us to study and use for study for future generations.

Mr. JOHNSON. Thank you.

Mr. BARRY. May I ask a question?

Mrs. HAYWARD. Go ahead, Mr. Barry.

Mr. BARRY. First of all, you have a relationship between the vegetative cover and the geology of the area, isn't that right?

Mr. BALDWIN. Yes.

Mr. BARRY. So, if timber is removed from that area, you would see a remarkable change in the structure of the valley and the hillside, isn't that right?

Mr. BALDWIN. There is a speed up in the erosion, a visible speed up, yes, and in growing and in things like that.

Mr. BARRY. And there are plenty of examples of this for us to use of this throughout the Western United States, aren't there?

Mr. BALDWIN. Yes, many.

Mr. BARRY. And as I understand it, there are few areas left in which nature combines with the top soil to combine what we have got—if we remove this example and if we remove this top soil and if we remove the trees, which we will be doing if we lumber it—we will then remove this example for comparison to those areas in which logging has taken place, isn't that so?

Mr. BALDWIN. Yes, the natural fall of vegetation helps prevent over dryness, it helps the supply of water where needed, it helps in regard to the soil, it helps to keep the soil in place—if you lose the soil, not if you lose it all, but if you lose any significant part of it, it damages the roots and the undergrowth, and it will not be there for future generations.

Mr. BARRY. I was comparing the types of landscapes—making a comparison between the sort of landscapes on the moon and what we have got on earth, it is actually a difference of what we have got on a vegetative area and a non-vegetative area, isn't that so?

Mr. BALDWIN. I think we would much rather take this evidence than what we have seen on the moon.

Mr. BARRY. Now, just for the record, Doctor Baldwin, would you tell us just a little bit about yourself, so that when this record, which will be reproduced in full in the testimony by Senator Hatfield by the Senate Interior Committee, of which he is a member, so that the Senators will know what your qualifications are—will you do that—

will you tell a little bit about your background?

Mr. BALDWIN. I have spent all of my life in the Northwest and have spent 29 years in the State of Oregon, and have been with the University 25 years. I have been in all of the Counties of the State, and have tried to stay most of that time in the State. As a consequence, I believe that I am in a position to compare French Pete Creek with other parts of the State and the Northwest. I am also a Professor of Geology.

Mr. BARRY. At the University of Oregon?

Mr. BALDWIN. Yes.

Mr. HAYWARD. Does anybody else have a question of Dr. Baldwin—I thought I saw someone in the audience that wanted to ask a question——

UNIDENTIFIED QUESTIONER. This morning one of the gentlemen made a statement that the soil up in the French Pete area has been washed naturally down to the rock, I believe that is the way he put it—down to the rock—I think that is the way he expressed it—it is rock and it is steep terrain—and really doesn't have much to offer the hiker—I believe that is the way that it was expressed, and that it would take years to erode it if it were cleared of the logs—what do you think of that?

Mr. BALDWIN. I do not agree—there is no difference in differences of yards and yards of rock. It, of course, depends upon what you want and where you are. It is steep terrain. I do agree to that—and it is true that you have to put roads in solid rock, but then you will have to go down quite a ways. It would also call for primary use of the roads, as well as away from the roads. If you want to see somewhat comparable type of terrain, you will notice the roads around the Cougar Reservoir on both sides. They had similar slides and similar rock, steep slopes, and I don't think that there is any question at all but that would make a terrific shock. I don't think that that would demonstrate to be the same kind of thing, if you were to put roads in there.

Mrs. HAYWARD. Excuse me just a minute—I wonder if you who asked the last question would identify yourself, please?

UNIDENTIFIED QUESTIONER. Yes, I am David Fletcher, Biology Major here at the University.

Mrs. HAYWARD. It is my adviser's suggestion that because there are so many people who are willing to testify tonight that perhaps I should not ask for questions from the audience, so, if you don't mind, I shall from now on not do that, at least until the very end when everybody is all through. Thank you, Mr. Baldwin very much.

Jonathan Hoffman, are you still here?

Mr. HOFFMAN. My name is Jonathan Hoffman. I am presently working for the City of Eugene and I plan on attending the University of Oregon Law School next fall. The reason that I wanted to testify is that I felt that developers are moving into Oregon. You can just walk down the street on a day like today and you can tell the developers because they are always kind of conspicuous. I do hope that they all do get very wet.

Well, it is with the lately development of all of these areas that we cherish that have come into play and that is the reason that I wrote this song and I would like to play and sing it for you at this time.

BACK ON HOME

(By Jon Hoffman, 1971)

All my friends grab their umbrellas when the rains come
They don't want to get wet
Or let any water on their humdrum,
But I think the rain is nicest in the fall
It washes my soul even better than Cold Water All.
I'm going back on home to Oregon
To where they still appreciate the day the sun comes
Back on home light up my Franklin stove
Take a walk by the river where it's clear and cold
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.
Have you seen the day the rain is falling while the sun shines
And the rainbow's grinnin' like a Cheshire Cat
'Cause it's feeling might fine
So I'll go back home beside the soil
Where the skies do more than advertise for suntan oil
I'm going back on home to Oregon
To where they will still appreciate the day the sun comes
Back on home where it rains a bit too long
And everything is perfect 'cause it's always slightly wrong
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.
Take your airstream trailer and stick it in your milkshake
You can keep your Daly Cities
And sit beside the TV's and the earthquakes
Get your motorboat off of my home
Turn your own jungle back into a garden you can call your own!
I'm going back on home to Oregon
To where they still appreciate the single day the sun comes
Back on home, to go on my living spree
Back to where the restaurants spell "potato" with an "e"
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.

(Applause)

Mrs. HAYWARD. I am not sure that you have paid your dues in the James G. Blaine Society, I recognize you as a true member.

Mr. BARRY. May I say something?

Mrs. HAYWARD. Mr. Barry, surely.

Mr. BARRY. I think for the sake of those back in Washington, who are basking in the sunshine, I think that the record should show that today it has rained continuously.

Mrs. HAYWARD. It may be 25 inches.

Mr. BARRY. Well, at least I heard over the TV tonight that it was a record for the day, that at least an inch of rain had fallen.

Mrs. HAYWARD. Mr. Strong, do you have any questions to ask of Mr. Hoffman?

Mr. STRONG. Mr. Hoffman, would you be quite as anxious to come back to Oregon and to French Pete if it were cut over?

Mr. HOFFMAN. Let me put it this way—I have lived in Oregon for 15 years; the last six or seven years I spent the last 4½ years back in Massachusetts going to College, and the year after that my wife and I spent the last year in the San Francisco Bay area, where I taught school, and then the last year we travelled around Europe, so I think that I have seen a fair amount of this country, and I have to admit that I have seen a number of areas, at least from a distance, they look just as nice as Oregon, but the nice thing about Oregon is that—when you live in San Francisco, you can go down to Santa Cruz and it is just as beautiful as anything that you will find in Oregon, you can drive to places where there are nice mountains and stuff like that, but the only difference is that there are twenty million people there at a time, at the same time.

Of course, the reason for that is, I think is kind of an extension of this multiple use concept which is that we should open everything up so that everybody can get there so that everybody must come. I think that that kind of indirectly answers your questions, but I didn't answer it in full, but the thing that bothers me is that partly the fact is that there are areas here where you can get away from everybody else, where you can find a little bit of quiet, after living almost a year right on the Bay-Shore Freeway—just a block from the Bay-Shore Freeway—and I really appreciate Oregon—and I think that people who are not from the San Francisco Bay area can really understand—I really like these open spaces—does that answer your question?

Mr. BARRY. Thank you very much.

Mrs. HAYWARD. Thank you, Mr. Hoffman.

Mr. Ernest Lund.

Mr. LUND. I have no written testimony. I am Ernest Lund from the Geology Department of the University of Oregon. I am very happy to testify here and hope that there may be some questions that I am able to answer, although Mr. Baldwin has done a remarkable job of that. I have no written testimony and no written statement, but I must say that I agree with all of the arguments that have been put forth for preserving this area in its pristine form. I think that one of the few remaining clear streams is one of the characteristic of French Pete and it has not been ravaged by man. I agree that even a small clear-cut will have its effect on the entire system there, and to log it fully would certainly destroy the characteristics of that stream and would make it valueless.

Now, the point has been made that with clear-cutting there is an increase in the erosion. This is true because the forest acts as a sponge, and once the forest is gone, the rate of run-off is increased. Now, this affects not only the immediate area of the clear cutting, but also the streams below because the run-off increases so rapidly as the rate of the soil run-off increases. Now, this soil has to go someplace. Some of it is very fine silt and will be carried down into the stream and in certain cases some of the organic materials will also be carried down into the streams, where it will upset the entire ecological balance along this stream, as it is an increase in the rate of sedimentation.

How seriously it would be upset would depend upon how near the clear cut would be to this stream itself, and how near the road would be, but any activity, any activity will have this effect in some measure on the French Pete Valley itself.

Mrs. HAYWARD. Thank you, Mr. Lund. Does anybody have a question to ask of Mr. Lund. Mr. Barry?

Mr. BARRY. Do you happen to know what effect this sedimentation would have upon any spawning beds?

Mr. LUND. Well, this is not within my——

Mr. BARRY. Well, Salmon would spawn there, I think.

Mr. LUND. On salmon, probably not above——

Mr. BARRY. Probably not above Cougar Reservoir——

Mr. LUND. Probably not above Cougar Reservoir, no—I don't know exactly what kind of beds trout use to spawn, but I doubt very much—I think that they need sand—I doubt very much that it is mud—I do think that they need sand—the sediment that would come out of the clear cut would be to a large measure mud. So, off hand, I would say that the effects would be a negative one.

Mrs. HAYWARD. Thank you very much, Mr. Lund. Is Mr. Darryl D. Carper here?

Mr. CARPER. Yes.

I am Darryl Carper and a member of the Santiam 4-Wheel Drive Association based in Lebanon, with 74 members in Corvallis, Albany, Sweet Home and the surrounding areas. This includes young and old, able bodied and also the handicapped.

We would like the French Pete Area to become a multiple use land for conservation of natural resources for the use of over 90 percent of the people and not preservation.

Our stand on land matter is multiple use of land, resources conservation, development of recreational resources whenever and wherever possible and practical.

Working with government agencies to open closed public lands by eliminating existing

resource damage and getting the fullest use of all lands, and further the education of members and public on resource problems.

Mrs. HAYWARD. Mr. Johnson, do you have a question to ask of Mr. Carper?

Mr. JOHNSON. Yes. I am concerned by the use of the description when you use the phrase "multiple use", because you suggest that this valley, as well as the entire forest should become used in multiple use matters, is that correct?

Mr. CARPER. There are a lot of wilderness areas now, and approximately only about one third of one percent of the population does use it, is that correct?

UNIDENTIFIED VOICE. I read that somewhere.

Mr. JOHNSON. Do you have any idea of what proportion of the Willamette National Forest is roaded?

Mr. CARPER. No, I don't know what the percentage is, no.

Mr. JOHNSON. Virtually all of it is roaded, is it not?

Mr. CARPER. A lot of it is, but I think that there is a lot that is not.

Mr. JOHNSON. But my question is—what I am getting at is, what size of area would you say is too small to suggest for multiple use—if you have a ten acre piece of forest, are you going to make that subject to multiple use, too?

Mr. CARPER. That is according to the lay of the land. I am not a geologist, a timber analyst or anything like that, but if a particular area can be best used for that purpose, then I would say put it to that use. I can't see locking up a particular area, if a person is strong, able-bodied with a pack on his back, walking in there for a day, winding up in this area and staying for a couple of days. If a person doesn't want to walk or hike up to a certain area, he should be able to drive up to see it is the other alternative. How are the handicapped going to see these areas? How is the paraplegic going to get there? He is as entitled to this right to see these places as anybody else.

For example, we have the Vietnam veterans, the paraplegics, how are they going to walk in there? They have as much right as anybody else to see these areas.

Mr. JOHNSON. My interest in the handicapped and the paraplegic is just as much as yours, I am sure, but I don't think that that is the issue, and that is why I am trying to find out what your testimony, trying to understand it, because as I understand it—say if we take it—there is a park in our neighborhood, which is a block wide—it is a matter of 150 feet by 100 feet in size, very small—well, the question is how small do you get a piece before you begin to use multiple use. Obviously there have to be roads where people can, who are not physically able to drive a four-wheel, or ride in a four-wheel vehicle, but do you want us to get to every piece, you want us to get to every valley for that use, or do you want to save the same for unique uses, for unique studies?

Mr. CARPER. There are a lot of wilderness areas right now that can be used for such unique studies. I have never been up to French Pete Creek all of the way—I have been up to some of it. Particularly, I would like to see all of the use come out of the land that is available to be used.

Mr. JOHNSON. Well, accepting that proposition, then the question involves sort of an immobile use, multiple use—wouldn't multiple use, when it is properly defined mean that you are going to have at least one valley in the entire Northwest that is over ten miles in length that has not yet been subjected to logging or roads, just one valley when looking at it in all directions that you can, that there are clear cuts and there are roads, next to it—

Mr. CARPER. Getting off of French Pete for a minute, and getting to the tram-way, say up Mt. Hood, surely there are a lot of people that go up there just to see the beautiful country from up there from the Mountain, but I don't know if it is very beautiful, as I have never been up there.

Mrs. HAYWARD. Does anybody else have any questions of Mr. Carper?

Mr. BARRY. Let me ask you—I am just as concerned about the handicapped that might want to go up here, but can't because they can't walk that far, the paraplegic and the cripple—do you know of any other area, let's say on the Coast Range, or on the beautiful Coast streams or anywhere around here, that isn't accessible by car?

Mr. CARPER. Well, I have been up to a lot of them—I have been up to Box Canyon and it is not too far by car.

Mr. BARRY. Is this just another one?

Mr. CARPER. That is one that I just recall now.

Mr. BARRY. Now, you enjoy, I presume, taking your vehicle into the wilderness country, is that correct?

Mr. CARPER. Yes.

Mr. BARRY. You would be so selfish as to say, if somebody wanted to get away from mechanization, that there aren't some places that they could go?

Mr. CARPER. Well, there are a lot of places right now that they can go. There are such places all over.

Mr. BARRY. Yes, there are trails that motorized vehicles can go on, but still they are not for some people, isn't that so?

Mr. CARPER. How do people get up into the French Pete Creek area to begin with? There is a parking lot up there, isn't there?

Mr. BARRY. Yes, there is a parking lot up there a short ways, but say then, there are no more motorized vehicles—would you say, would you think that it would be fair that everything in the Northwest should be accessible to motorized vehicles?

Mr. CARPER. No.

Mr. BARRY. Or should be there at least one place not spoiled by the vehicles?

Mr. CARPER. But I am for multiple use, but as I say, I think that we have enough wilderness areas right now for that purpose. That is as I understand it.

Mr. BARRY. Do you know what percentage of Oregon is in wilderness?

Mr. CARPER. No, I do not.

Mr. BARRY. Who was it that said it was less than 2%—do you think that is too much to give to people who do not want motorized vehicles spoiling the landscapes?

Mr. CARPER. They have already got it.

Mr. BARRY. That is not the question—do you think that is too much?

Mr. CARPER. Well, they will have to eat someday.

Mr. BARRY. What has eating got to do with it? Well, that is enough, thank you.

Mrs. HAYWARD. Any other questions?

Mr. JOHNSON. I have one other question. Are you aware that the wilderness areas that are in Oregon, that they are so crowded, that there is so much overuse, but as of this year, you will not be able to enter any of them without a prior written permit, did you know that?

Mr. CARPER. Yes, I understand that that is true and I think that is a very good job and everything—I think that is good.

Mr. JOHNSON. And also are you aware of the fact that, at least to my knowledge, there are none at this low elevation that could be used during the long winters like this one?

Mr. CARPER. Yes, I am aware of that.

Mr. STRONG. You have said several times that there are enough wilderness area and it seems to you that multiple use is always preferred——

Mr. CARPER. Yes.

Mr. STRONG. I take it by that definition then that you would say that none would be enough, is that what you mean?

Mr. CARPER. No, I am sorry, I didn't mean to say that. I have explored a lot of wilderness areas in the last couple of years.

Mr. LINDE. Your organization is called the Four-Wheel Vehicle Association, is that it?

Mr. CARPER. Yes.

Mr. LINDE. Your testimony today seems to be that you are interested in primarily access type vehicles—what do you mean by that?

Mr. CARPER. Areas where these vehicles can go, I guess is what you mean.

Mr. LINDE. And you might be interested in going to logged off areas, is that right?

Mr. CARPER. Yes.

Mr. LINDE. And they—you are concerned with logged off areas—now, you have spoken more than once about multiple use area—what other use with a vehicle do you think you could get from the multiple use lands—are you just concerned with the use of the vehicle?

Mr. CARPER. No, not at all.

Mr. LINDE. What other use then?

Mr. CARPER. Well, it would depend upon the lay of the land, just what it is used for. If it is a good logging area, well, go ahead.

Mr. LINDE. Well, that is what I was trying to find out——

Mr. CARPER. If there are large rock abutments and things of that nature, then it wouldn't be very good for either, it seems to me—if it has good fresh water then that should be used to stock fish and it would be good for the fisherman.

Mr. LINDE. Are you taking a definite position on this—I mean on the logging of this French Pete Valley?

Mr. CARPER. We have a stand of seven items that I read off—those are what they are.

Mrs. HAYWARD. Thank you very much, Mr. Carper. Mr. Brock Evans.

Mr. BROCK EVANS. Before going into my prepared speech, I would like to throw out a few comments—when I was down at Klamath Falls, Oregon, on one of these things, the fellow in the wheel chair got up and said that he didn't care about going to such an area, but that he would just like to speak for himself—I am sure that you find that is what a lot of these people you have been talking about—how they feel about this. There are a lot of areas now where they can go. He thought that it was important to have some of these wilderness areas.

My office has run a survey as to what has happened in the Northwest about the wilderness area in the last 15 or 20 years. In the past so many years some 800,000 acres that were formerly in wilderness areas have been taken out of this classification by the Forest Service. One of the problems that there is is that all of the areas that you have in wilderness areas, all of the areas in National Parks, all of the areas in State Parks here in Oregon and you put them all together, then you have just a little bit over what you have in one National Park in the State of Washington, the Olympic National Park—that is figured in acres. Washington has just a few more people than you have, but in the State of Oregon, this is all that you have left of these once beautiful forests.

To anyone that wants to see what has happened to the Oregon Cascades, should fly over them from the east to the west—it looks like a great army of moths has attacked them—in clear cutting, there are nothing more than just a few little patches of timber left.

I have come a long way to be here today, not just because I represent an environmental organization with a historic interest in French Pete Creek which goes back 20 years, but also because I personally have cared about what happens to this valley ever since I came to know and care about the Northwest land, itself.

I think perhaps it is difficult for many who have lived in the Northwest all their lives to truly understand what an impact the Northwest landscape—its mountains, its rivers, its forests—has upon those who live elsewhere and come here for the first time. So it was for me, born and raised all my life

in Ohio and went to college on the east coast, the first time I saw the Cascades, and the first few times that I had begun to walk the great forests of the Northwest, both in Oregon and in Washington. There is something about the Northwest forest that they just don't have anywhere else, the feeling of the great massed trunks of trees reaching up to the sky, the feeling of the ferns and moss under your feet, of sensing the awe when you see the soft, green light that envelopes everything around you, that sweet musty smell that we only find in the Northwest forest. This is really something very special.

Soon after I moved to Seattle about ten years ago, and started hiking in the mountains, I became very conscious that such deep forest places away from the roads and machines and logging were very scarce indeed, and getting scarcer. Place after place that I would walk into one summer would be clear cut or logged off the next summer or two. I became very sad and unhappy about what was going on in the state of Washington, and the pressure of conservation issues were deepened and I was interested in what was happening in Oregon too. I followed the controversies over French Pete, and lived with the memories of battles lost by conservationists from Eugene of an earlier time. The history of the long struggle to save French Pete went back to the 1950's and was a living sadness for me too, and I wanted even then to do something about it if I could.

Thus it was that when I took the job of Northwest Representative in 1967 for these organizations, and one of my very first concerns was to see if we could salvage something of what was left of the great gentle forests that once swept like a green train from the mountaintops to the sea in Western Oregon.

It was about that time that the Forest Service was preparing its first major timber sale of French Pete, and I remember the long efforts that summer of trying to get the people together to see if we could make one last effort to save it and do something about it, so that all people could enjoy it. To keep a few places free from roads and logging, chainsaws and clear cuts.

I remember coming down to Eugene in a rainy January in 1968, and I lived three days at the house of Win and Dick Noyes, to document what we instinctively felt to be true: that French Pete indeed was one of just a very few places left where one could walk all day in the great Oregon forests, and still, at the end of the day, not be near logging and roads and clear cuts and chainsaws. I took maps of every National Forest in the Oregon Cascades, plotted out all the major valleys that were ten miles or more in length—this being what a good day's trip would be. The results of the survey were even more shocking than we felt. Of 67 major valleys of this type, only three, including French Pete, were left. I believe it was this realization, based on this documentation, that might have helped to galvanize the people of Oregon into realizing that most of what they had considered was there and theirs and to be safe, and was already gone; and that French Pete—perhaps not such an out-of-the-ordinary valley once, now was almost unique in the whole state.

It was my privilege and honor to prepare the first appeal that we filed, to ask the Forest Service not to log the area, and I served on the original Forest Service citizens committee as it "reconsidered" the area.

I share the views of most of the other conservationists who lived through those times that, despite its "restudies", the management of the Forest Service at that time had no intention whatsoever of deviating from its original plan to log the area. I think that subsequent events pertaining to this appeal showed that this proved to be a correct assessment, because our appeals to not log the area have been rejected at all levels of the Forest Service and the Department of Agriculture hierarchy, and now we will have to go to court to save what should have been saved by the agencies we have hired to protect the places we love.

We like and respect the present management of the Willamette National Forest, but it is still my considered opinion that there has been no change in the agency attitude and that eventually French Pete will still be logged, unless they are limited before the situation becomes out of hand. That is why we cannot leave the issue up to simply administrative discretion. This place will be logged if this is the case. We must protect it, by law, forever.

That is why we support Senator Packwood's legislation. It is not as strong as we would like but we still believe that the area qualified admirably to be a part of the Three Sisters Wilderness. We think that it also qualified as a magnificent representative sample of the Oregon Cascades, to be protected forever in the proposed Oregon Cascades National Park. We have not abandoned that dream, either. We believe that Senator Packwood's bill will protect the place at the very least and guarantee that it will not be logged. We think this is very important and so we support it.

We feel that it is too bad that the other members of the Oregon delegation with the exception of Congresswoman Green, haven't seen fit to speak out as Senator Packwood has to help protect this place and we wish they would.

In flying up the Oregon Cascades, we saw what you are talking about with the clear cuts, it looked mangy and then finally you see French Pete, a whole green finger of valley sticking down in the low land and not the high country as most of the Wilderness areas are. All around Eugene you see the clear cuts and more are being planned.

This is what it is all about and this is what we are fighting for. I travel all over the Northwest as part of my job and I see a lot of beautiful places but I think that the charm and uniqueness and for special value of the Oregon Cascades, that the French Pete area is one of the very best places that we have, and that we should protect it. Thank you.

(Applause.)

Mrs. HAYWARD. Thank you, Mr. Evans. Does anyone at the table here have any questions for Mr. Evans?

Mr. LINDE. How great do you think the differences mentioned in the Wilderness area and the intermediate legislation that we have here in Senator Packwood's bill are?

Mr. EVANS. There are basic differences as I recall, the permitting of more daily campers, this sort of thing, than are permitted in the wilderness bills, although the two bills are pretty similar in this regard unless one goes over them with a fine tooth comb.

Mr. LINDE. Do you know of any other intermediate recreation areas that are fairly close to us here covered by Senator Packwood's bill?

Mr. EVANS. No. Senator Packwood's bill is unique—I think that it is a concept that needs to be explored—I think that we need places like this. I think that they have been wilderness areas for so long—they worked hard to get it into the Three Sisters Wilderness Bill—that we should go right down the line with areas like this, and keep it in a wilderness state. The bill is a good one, maybe not as strict as we would like it, but it is the best that we can do at this time.

Mr. LINDE. Well, your primary concern is avoiding, and I take it motorized traffic—keeping that out, is that right?

Mr. EVANS. Roads and logging and motorized activities, right.

Mrs. HAYWARD. Thank you, Mr Evans. Is Libby Evans here?

Miss EVANS. My name is Libby Evans and I am a student here at the University of Oregon. I live in Eugene.

French Pete is more than a lovely carpeted forest of old growth timber in the Oregon Cascades. French Pete is a symbol with it meaning many different things to different people.

To some, this valley means dollars and cents, buying and selling and lots of big profits just ripe for the pickings in its estimated 700 million board feet of timber. To others it symbolized the imperative long, hard and bitterly fought political battles which eventually entail more grey hairs and political hassels for all concerned, but hopefully it will result in victory, thus assuring the valley's protection.

To me, French Pete means all of this and it means a lot more. To me, it symbolizes my humaness. A couple of years ago, I had the opportunity to live in an unbelievably crowded and economically depressed neighborhood in Chicago. At the end of my six weeks stay there, I flew home to attend my brother's wedding in Ashland. In less than 24 hours I went from living and experiencing the constant psychological and emotional tension of the desperate big city life to being able to see, feel and experience open space and the earth's naturalness. This contrast was truly overwhelming to me. Never in my life have I experienced such a great and sudden psychological and even physical release from the constant driving pressures—the inevitable result of the concrete and asphalt existence.

It doesn't need to be said that human beings reflect the environment in which they live. And as Oregon's population continues to increase by the great influx of people from other parts of the country who are coming here to get away from it all, it is obvious that not only do we need French Pete but also a hundred other valleys and forests like it.

One incredibly beautiful day early last fall, I had the opportunity to hike into the quiet, majestic beauty of this valley. The feelings that I experienced are hard to describe but I know that I do not have these feelings in any city I have ever been in. For these reasons, I know that I need a special place to go so that I may stay in touch with those feelings that make me a human creature.

Thank you.

Mrs. HAYWARD. Thank you very much. May I remind those of you who have come in since we started that if you wish to make a statement if you will please sign up out in the corridor, then we will have your name before us.

Now, we have several people who have come in and have indicated that they need to get away by 8:30 p.m., and already it is past 8:30, so it occurred to us that perhaps if I can get some indication by having you raise your hand about the number of people who would like to speak by 8:30 and now it is past 8:30, perhaps we could take the next 10 or 15 minutes and let you come up first—Mrs. Wingard, I know that you are one. Are there others that need to get away?

(Some response) I see there are about four or five over there—let's see if in the next 10 or 15 minutes, we can get all of you taken care of. Perhaps if we do in that fashion, we can take care of all of you, with you limiting your remarks to maybe three minutes. Mrs. Wingard, we will start with you.

Mrs. WINGARD. I am Edna Wingard and I am a charter member of the James Blaine Society. I like today—it is a beautiful day. (It was pouring down rain here.) (Applause) I am one of those who came here forty or fifty years ago, and one of my fondest hopes is that I leave my grandchildren the beautiful world of French Pete Valley.

I want these places saved so that my grandchildren and their grandchildren can see my woods that I love so much. I want them to become acquainted with these woods, and to

see the small animals and vegetation that live there, to hear the forest sounds, to be able to breath the fresh forest air, to see the little branches, the waterfalls that abound there, the sounds that are there that is nowhere else around, to hear the singing of the wild birds that are there. I want them to hear the scampering about of the small animals that live there. Were such ecological wonders destroyed they could not be replaced by all of the King's horses and all of the King's men. Were this forest destroyed for its lumber, air conditioners will not produce the forest and fresh air, his 3-D color films not capture the forest's true beauty nor his stereophonic recorders match nature's voices. Man's imitations are "Near the church, but far from God".

Mrs. HAYWARD. Thank you, Mrs. Wingard.

Mr. Merrill is next.

Mr. MERRILL. My name is Ben Merrill and I am a student at the University of Oregon School of Law. I have a short statement tonight which is a testimonial with no authority and I hope that this is noted in the record, for whoever reads it.

What can be said that hasn't already been said about French Pete? No doubt outdoorsmen and women, environmentalists, teachers, students and other citizens of the community, have come here today and this evening to record their feelings about French Pete. No doubt by now you know the location, formation, dimensions and perhaps its preciousness.

But perhaps you would let me turn from these observations already entered today to something which concerns me, at least and perhaps you, a little bit more. For lack of articulateness, let me call it a national psyche. Nations like people, develop psyches. We have observed manifestations of a national psyche in Germany from 1932 through 1945; and perhaps more recently in South Africa.

No doubt there is a corporate psyche, illustrated most graphically in the recent articles about ITT, a psyche which drive corporations on to greater profit, greater expansion and greater greatness.

And yet the ever increasing gross national product must be interpreted along with the gross national by-product—tangible by-products like smog, water pollution and indeed, the act of expansion that strikes out and destroys that which we all cherish—here today, French Pete, tomorrow, perhaps some other wilderness area.

Now, the government is supposed to represent the public interest, but it does little to protest that expansion.

Those of us training to be lawyers can only stand like small boys before a leaking dike, attempting to put a finger here, a thumb there. We attempt to take what little law there is, and use it the best we can in the most imaginative way that we can to stop the environmental degradation.

How much better to make law, to urge the government to take the initiative to halt the wholesale destruction of natural, unreplaceable resources.

Let there be no mistake, the violence we find ourselves in abroad leads to national economic setback at home. In the name of progress, in the name of national interest, our Government is urged—"to get the country moving, we must exploit, exploit, exploit". Yet exploitation is the very reason we find ourselves in the quagmire we are now in today.

Let the Government take the stand for which it is created—to guard and protect the public trust of its lands, be they forest or city. A public trust what has been breached.

Stephen Byington once wrote, "it can never be unpatriotic to take your country's side against your government; but it must always be unpatriotic to take your government's side against your country."

To many of us, French Pete represents our country. There can be no higher patriotism than that found in those who urge a preservation of an area which represents the wilderness, the untouched splendor, the very spirit of the reason behind America.

Newscaster John Chancellor recently stated: "It is easy to find the United States, just hard to find America." Can't we find and protect a little bit of America in French Pete? I think that we can, and if we can, I hope that it is not too late.

One of the most articulate teachers that I ever had was a fellow by the name of Rick Schuman who taught a seminar at William and Mary College, who dedicated the seventh editon of his textbook to his grandchildren, in hopes that he would leave them a fit world to live in. If fitness means wilderness, let's leave the world just a little bit better.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Merrill.

Mr. BARRY. What was the name of that author?

Mr. MERRILL. Stephen Byington.

Mr. BARRY. Thank you.

Mrs. HAYWARD. Mr. Baldinger, did you have a statement that you wished to make?

Mr. BALDINGER. Yes. Madam Chairman, here at this hearing, this is testimony in support of Senate Bill 866, to establish the French Pete Intermediate Recreation Area in the State of Oregon.

I am Wallace Baldinger, Director Emeritus, Museum of Art, University of Oregon.

I have been a resident of Eugene for twenty-eight years. Early in this period of residency I set out with my family to build a cabin on a summer home site in the Willamette National Forest on Hose Creek a short distance upstream from that creek's confluence with the McKenzie River. Every detail of our design for the cabin and of its exact siting on the lot had to pass the scrutiny of the United States Forest Service rangers responsible for the group of summer home sites involved. When a ranger blocked our proposal for a shed roof and forced us to build a roof with a gable instead, when he allows us to fell a single specific tree in order to make room for the house and at the same time forbade us to fell another tree which we thought needed to come out, too, my family and I developed a wholesome respect and admiration for the Forest Service as a protective agency dedicated to the preservation of Oregon's greatest natural asset, her mountain forests.

Yesterday my wife and I hiked over a part of the French Pete Trail. Our respect and admiration for the Forest Service was renewed. The Trail was in perfect condition. It afforded us as we walked along it, soon mercifully out of hearing of the roar of logging trucks carrying out the loot from a big cutting operation nearby, a chance to share intimately once again in the life of a completely undisturbed mountain valley so fortunately easy of access to the people of this part of Oregon, so precious a surviving unit of this once-flourishing Cascade Mountain forests. We were overwhelmed with the beauty of French Pete's tumbling waters, of its spectacularly cascading tributaries, verdant banks and towering rocky borders. We noted with satisfaction how carefully the Forest Service was keeping the Trail cleared, the little bridges in repair, the log-walks across the Creek fully and safely replaced every time a winter flood dislodged them. We remarked that any government agency doing such a good job of maintaining a wild mountain valley for its scenic and recreational benefit to the citizenry of our state cannot be all bad.

Then the realization came back to us with greater shock than before that it was this same Forest Service which was planning to open up the French Pete Valley to the same attack by loggers which had laid waste every other comparable mountain valley of the Cascades, south of Mt. Hood. It seemed a genuine case of "split personality", of a "Dr. Jekyll-and-Mr. Hyde" complex—with one hand tending the Valley with seemingly loving care, with the other offering it for sale to rape by private timber interests.

If the Forest Service were remaining faithful to the trust placed in it by the people of the United States and not operating as though its primary responsibility lay in offering benefits to loggers, then this hearing, organized by the socially-conscious students of the University of Oregon after Senator Hatfield's defection, would not have been necessary.

At this moment when our environmental crisis looms over us so insistently as to threaten our very survival, it seems especially important that the French Pete Valley be taken safely out of the hands of those repeatedly tempted to sell its timber holdings to the highest private bidder. It needs to become permanently established as a recreational area beyond all chance of damage by any private commercial operation. French Pete is much more, in fact, than a mere picnicing-hiking ground. It is a completely balanced river-valley region, shaped by nature through ages of action and reaction of organic life and force of wind and weather. In its internal adjustments of one aspect with another, it is infinitely complex. Outside interference by a road-building and logging enterprise would upset the delicate natural balance on which this life depends. It would ruin the French Pete Valley just as it has already ruined so many other mountain valleys.

We know now how seriously our burgeoning population and affluent ways of behaving and expanding technologies are destroying the natural environment on which depend not only the lives of the other creatures of nature but also the lives of ourselves. According to a basic principle of ecology, "Nature Knows Best." In the French Pete Valley Nature up to this point has continued to demonstrate that principle. In this one mountain valley near us at least, let her continue so to demonstrate. The French Pete Valley, protected against man's destructiveness but open to his exploration and inquiry on foot along the Forest Service trails, has much to offer us without the mining of its lumber. It has even more to teach us.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Baldinger.

Any questions of Mr. Baldinger?

(No response.)

Mr. Ed Mehlhaff is next, I believe. We understand that you have been waiting since this afternoon to make testimony and we all appreciate your staying that long.

Mr. ED MEHLHAFF. Last weekend, I was in the French Pete area. While I was there, I came under the influence of the majestic trees. It will be a crime against all Americans, both present and future, if the French Pete Wilderness is allowed to be turned into a clear cut wasteland. As of now, there are trout in French Pete Creek and the adjacent streams. If the area is logged off, this situation may change. Like most Oregonians, I have seen the result of clear cutting and I am totally committed against this practice.

I view the French Pete controversy as a turning point in our government. How the controversy is settled will determine whether we will have a government existing for the people or a government existing for big business.

Mrs. HAYWARD. Thank you, Mr. Mehlhaff.

Does anybody have any questions?

(No response.)

Mrs. HAYWARD. Mr. Copeland.

Mr. COPELAND. My name is Bill Copeland and I am a Graduate student here at the University of Oregon in plant ecology, and I would like to mention the importance of

the soil to plant interrelationship and say that it is very important, but actually we know very little about it.

In my field, and in a lot of others, too, you hear a lot about maintaining diversity—diversity of this or diversity of that—the importance of that. It is all important—we hear a lot about it in agriculture and it is important, and the first question that comes to you is WHY—Why is it important. I think in our lowland forests it is very important, just as it is in agriculture. These lowland forests, which could be considered in the French Pete Valley, maintain a different set of species and soils and climates from the highland forests, where most of our wilderness areas are now. We now are beginning to realize this, that the species and soils are different and also the climates are different.

We are just now beginning to realize how very, very important the soil plant interrelationships are, and also we are beginning to realize how little we know about this system as a whole, how important the organic relationships are and such. Now, once we cut the lowland forests, they will all be gone, and we will no longer be able to use them to learn how nature has managed them, and we certainly don't know how to manage them without nature's wisdom. She has certainly done a good job up to now. We haven't been able to duplicate them in any way that she has done. The high forest system cannot be used as a study because the soils and systems are quite different from the lowland forests.

Are we going to be so imprudent as to destroy the last of these few natural lowland forests laboratories, thinking that we know enough now to manage them by ourselves? I hope not.

Mrs. HAYWOOD. Thank you, Mr. Copeland. Are there any questions of Mr. Copeland?

Mr. LINDE. Yes. Mr. Copeland, your statement makes mention of lowland and highland forests. What altitude are you talking about there?

Mr. COPELAND. The highland forests probably have an altitude of 1700 to 1800 feet, something like that—I am not to sure, but it is approximately around that altitude.

Mr. LINDE. Then what altitude would you define as a lowland forest?

Mr. COPELAND. I believe below 1,000 feet would be lowland forests.

Mr. LINDE. That is the point that I wanted to bring out—is there any lowland forests that are in wilderness areas already at that altitude.

Mr. COPELAND. And the highland area would go all the way to 4,000 or 4,500 feet altitude, so that there can be a great deal of difference in it.

Mr. LINDE. There is quite a bit of wilderness in the State already at the higher altitude, isn't there—is there any below 1,000 feet that you know of?

Mr. COPELAND. Not that I know of. I think that the Siskiyous have some lowland wilderness area—but that is about all that I know of, the Kalmiopsis, also.

Mr. LINDE. This valley is not covered up by snow all the year around, or even in the winter, there has been testimony that it is passable in places—for how long does the snow last up there in this valley, do you know?

Mr. COPELAND. Well, there is snow most of the way down a good part of the year—where is the gate—at about 3500 feet—there is snow sometimes down there on the McKenzie, I believe.

Mr. LINDE. Thank you.

Mrs. HAYWARD. I think Mr. Barry has a question or two to ask you, Mr. Copeland.

Mr. BARRY. I am trying to find out just exactly what your specialty is—you have mentioned the soils and the ecology and their relationships on the Douglas Fir forests there, and on the clear cutting——

Mr. COPELAND. Well, I have a tendency to look at what the clear cutting will do to our Douglas Fir forests in there and the interrelationships there on the soil and the vegetation.

Mr. BARRY. Have you found any evidence that you can cut, clear cut Douglas Fir and bring it back without having some kind of intermediate growth there?

Mr. COPELAND. What do you mean by bringing it back?

Mr. BARRY. Well, bring it back to a similar type forest, cut it, and then bring it back to the same type of forest without having any intermediate growth there—have you found any evidence that you can do that or cannot do that—what I am reaching for is that I heard a speaker, who may have had some authority on what he said, or he may not have had any authority, but he indicated, anyway, that the cycle for regrowth of Douglas Fir is 37 years—that they could get a Douglas Fir Forest to regrow in 37 years—but there were others that said it might be 100 years before you could get a Douglas Fir forest to regrow, of course, depending on many different things, etc., have you had any evidence of either one of these things at all?

Mr. COPELAND. Well, Douglas Fir can begin to come into a site anywhere from the first year after it is cut—say you have the natural conditions after a fire, that is one of the common ones—it can come back again from one year to 150 years—it may take a long time after that at any particular site—each site you have to look at it individually.

Mr. BARRY. And this is the field that you are working in, is that right?

Mr. COPELAND. Yes.

Mrs. HAYWARD. Mr. Strong, do you have a question?

Mr. STRONG. Yes. Do I understand from your last statement that there is no particular guarantee that a certain site will come back into Douglas Fir after it has been cut or had fire in it?

Mr. COPELAND. There is just probability involved. Some sites will be more conducive than other sites, it just depends on what type of site it is and what undercover and the type of ground that there is—that has a lot to do with it, but where there are a good many shrubs in the area, it is a little more difficult for them to come back.

Mr. BARRY. Nor can the Forest Service do it, is that right?

Mr. COPELAND. That is right. In fact I was out on a slash burn the other day when they were putting in seedlings and I was talking about this very thing, and they said that they were very anxious to find out about this very thing, and evidently there is some controversy about it among them, themselves.

Mrs. HAYWARD. Anything else, gentlemen, in the way of questions?

(No response)

Thank you very much, Mr. Copeland. Mr. Jay West, you are next, I believe.

Mr. WEST. First, I want to say thank you for letting me come on now. First of all, I wish to make a very brief statement on my own behalf. I can only say that there is only one French Pete. Now, I say fight to save it. Now, I wish to read a statement from Wayne Morse. This is a statement that is a couple of months old, but he feels that things haven't changed much and he wants Senator Hatfield to know how he feels about it. This is the statement.

"French Pete should be designated as a Wilderness Area or, at the very least, as an Intermediate Recreational Area. It is the only remaining unspoiled valley below 3,000 feet in the Oregon Cascades; it is low enough in altitude to be accessible the year round to people who want a quick break into the solitude and spiritual inspiration resulting from their entrance into the God-made French Pete cathedral of undefiled nature.

Our Federal Government cannot justify denying to future generations the French Pete Creek land as a protected area. All the talk about conservation, ecology, and preservation of natural cathedrals constructed of forests, mountains, streams and all the inspiring wonders of nature, becomes verbal hypocrisy if French Pete and Rock Mesa are allowed to become despoiled by logging and mining.

The Congress and the State Legislature should seek to prohibit the building of any logging or mining roads into these two areas; in addition, the Congress should pass legislation which will prevent logging in French Pete and mining in Rock Mesa. Furthermore, there should be no delay in proceeding with all possible legal action in the courts to protect the public interest by preventing logging and mining in these areas.

All of us as citizens, acting through our constitutional system of self-government, should view the government as the trustee of God's gifts to our nation of life-giving and life-preserving natural resources. That trusteeship places upon each generation the moral responsibility of leaving those natural resources to the next generation in a better condition than it inherited them.

The people should know that our government can be counted upon to keep faith with its trusteeship obligation to protect our natural resources so that they will always be an unspoiled legacy to each oncoming generation.

We have not been good trustees for a long time in the United States. Pollution of land, water and air; wasteful depletion of forests, soil, minerals, wildlife, scenic and outdoor cultural values are impoverishing our nation.

Talk is cheap, but sound public action to conserve our priceless natural resources is wealth-creating. The time has come for the Federal Government to substitute action for talk in carrying out its trusteeship obligations in respect to our nation's resources."

I will leave some copies of this and I thank you again.

Mrs. HAYWARD. Thank you very much.

Does anybody have any questions to ask of Mr. West?

(No response.)

Thank you very much.

Mr. Alan Fraback, you are next.

Mr. ALAN FRABACK. I am Alan Fraback and I am a journalism major at the University of Oregon.

First I would like to say that we care for the forest and do so very cheaply.

I demand the preservation of the French Pete Creek Valley not only as a concerned citizen, but as a near lifetime Oregonian who recognizes the unsurpassed beauty and natural resources of this great state. I realize that the timber industry has brought this state to a high level of economic balance to compliment its abundance of resources. But that balance is in danger of tipping the scales in favor of total exploitation of Oregon's natural resources. Economic benefits from resources serve as benefits to the people up to a point before they become economic hinderances. When such exploitation results in diminishing, rather than increasing, returns to the people it is time to put a halt to it.

I know the beauty of the preserved wilderness areas of Oregon and have seen most of it firsthand. But none of the high alpine country can surpass the French Pete Valley for lush natural beauty and an abundance of nearly year-round recreation facilities. I was awed only three days ago by the springtime beauty of the valley and witnessed the excessive use the valley is receiving even before it has become an intermediate recreation area. Where are these many people to go if we should turn French Pete over to the economic interests of a minority? Hopefully, they'll not have to go elsewhere in the future!

I fully support Senator Bob Packwood's bill to establish the French Pete Creek Valley as an intermediate recreation area.

Thank you.

Mrs. HAYWARD. Thank you very much, Mr. Fraback.

Does anyone have a question to ask of him?

(No response.)

All right, thank you very much.

Mr. Koford, you are next.

Mr. Koford, I have been told by my advisors that I am to tell you that if you wish to hand your statement in, that it will be printed in its entirety and that you can summarize it, and that is true for anybody else that has testimony that he wishes to make. So, I am leaving that up to you, but that is what will happen. It will be included in the record if that is what you wish to happen.

Mr. KOFORD. I will try to speak briefly.

My name is John Koford and I would like to speak for myself and the University of Oregon Student Senate. With me I have three resolutions passed by the Student Senate expressing their views on French Pete and the other wilderness areas in the State of Oregon.

We feel French Pete's value as an easily accessible low-altitude wilderness should not be jeopardized by extensive development. For this reason, the Student Senate of the University of Oregon wishes to express their support for Senator Packwood's bill S. 866. Further, the Student Senate wishes to go on record as calling for the continuation of the studies to determine whether the last remaining wilderness areas in the States of Oregon and Washington will be included in the 1964 wilderness act.

And the resolution:

"Whereas Senator Robert Packwood has introduced in the United States Senate a bill to establish French Pete Valley as an intermediate recreation area,

"Whereas Senator Packwood's bill would keep French Pete Valley as it is now—in its natural state,

"Whereas the U.S. Senate Interior Committee, headed by Henry Jackson, has scheduled subcommittee hearings only in Washington, D.C. (May 25 and 26 of this year), concerning Senator Packwood's bill,

"Whereas said Senate committee has scheduled no field hearings for Senator Packwood's bill,

"Whereas many individuals supporting Senator Packwood's bill cannot afford to go to Washington, D.C. for the hearings to speak in favor of the bill with one exception, the well-financed timber industry which is opposed to the bill,

"Whereas Senator Mark Hatfield is a member of said committee and has been opposed to Senator Packwood's bill because the bill would eliminate clear cutting in French Pete Valley as envisioned and outlined under Senator Hatfield's bill allowing clear cutting in that area,

"Therefore Be It Resolved that the ASUO Senate send a letter to the U.S. Senate Interior Committee, its chairman, Senator Jackson, and all senators of said committee, and to all members of the Oregon Congressional delegation stating the ASUO support for Senator Packwood's bill and calling for field hearings to be held in Oregon by said subcommittee reviewing the bill before said committee takes final action on Senator Packwood's bill."

And a further resolution:

"Whereas the U.S. Forest Service is currently taking testimony on whether to discontinue the study of 12 wilderness areas in the Williamette National Forest which are currently being studies for wilderness classification,

"Whereas these are priceless, roadless areas where man comes as a visitor to watch nature. Further the U.S. Congress has designated wilderness criteria as, "suitability, man is visitor, 5,000 acres, availability".

"Whereas each of the 12 areas meets or exceeds these basic qualifications,

"Whereas OSPIRG and the ASUO Survival Center have offered testimony calling for the continuation of the present study an expansion of the study to include 210,000 acres.

"Therefore Be It Resolved that the ASUO Senate speaking for the students of the University of Oregon and as the financial supporters of OSPIRG and the Survival Center wishes to go publically on record as defending the stand taken by OSPIRG and the Survival Center."

And I have a short statement of my own.

In 1964 the United States Senate passed the, "Wilderness Act" which designated its criteria for a wilderness area as, suitability, 5,000 acres, five miles long and two miles wide.

The French Pete Valley exceeds all of the above criteria. It offers low altitude wilderness experiences to people who might find it difficult to climb into the higher elevation areas. This valley is one of the few areas below 3,000 feet in the State of Oregon which is roadless and in its primitive state.

Senator Packwood has proposed a bill S866 which would preserve French Pete's wilderness charm. The bill calls for an improvement of the trails (footpaths), the construction of basic campgrounds and the construction of a few outdoor rest rooms to avoid pollution of the French Pete Creek. This bill will preserve the quality of French Pete's environment while improving access to those who aren't able to reach the high elevation areas.

The questiton of French Pete is one of priorities. There are only 13 areas left in the States of Washington and Oregon which could be labeled wilderness areas under the law. In these areas nature is allowed to balance her environment without disruption from man. In a state once famed for its wilderness areas, doesn't it seem sad that all these states have left are 13 areas that are legally recognized as wilderness areas. I feel a time has come to make a commitment to the preservation of the quality of Oregon's environment.

French Pete and the other primitive areas must be protected. Therefore, I would like to encourage the Committee to consider carefully the question of French Pete. Further I would like the Committee to continue its study of the other 12 wilderness areas. The preservation of these areas is a debt we owe to the environment for all the great wealth she has bestowed upon this country.

Mrs. HAYWARD. Thank you, Mr. Koford.

Are there any questions of Mr. Koford?

(No response)

Thank you, very much.

Is Tom Taylor here?

Mr. TOM TAYLOR. Yes.

Mrs. HAYWARD. Mr. Taylor, we thought that you might be interested in knowing that you are the 100th witness that we have had before us today.

Mr. TAYLOR. Mrs. Hayward and gentlemen of the panel. My name is Tom Taylor. I am a partner in the architectural firm of Olson & Taylor.

I am also a native Oregonian who still hasn't learned to carry an umbrella.

I am a hiker and I have been an explorer of Oregon and the Oregon Cascades for the past 37 years, long enough to see the almost complete decimation of the de facto wilderness in the areas outside of the stated wilderness areas.

The French Pete Valley is one of the very last fractional elements of the de facto wilderness remaining. Looking at this valley from the standpoint of a plan, there are three basic land uses possible. The first two uses are now carried on in almost every other valley of the Western Cascade watershed, basically logging and mechanized recreation.

The only other use, the primitive recreation is available now in a very, very limited area outside of these dedicated wilderness areas. I worked on a land use plan for the Friends of the Three Sisters and for the Sierra Club, concerning the Three Sisters Wilderness area. From this plan, we concluded that wilderness is basically not a recreational area and it should be looked at from this point of view.

It is basically for wilderness value and the preservation of wilderness values and this does not always include recreational usage. We also concluded that at this time the Three Sisters Wilderness area has probably reached the point where it is being overused from the recreational standpoint.

So, other areas of this type are very, very important. We don't have to look very far to know how much of this area is left.

French Pete is one of these areas. The things that make French Pete so unique, is the unique combination of advantages and I will give those now. (1) It is close to population centers; (2) it is low elevation with a long season; (3) it is now roadless, and this is a great advantage for primitive recreation and in fact, it is a necessity; (4) it has good water and good camping areas and this is very difficult to find outside of any designated wilderness areas; (5) it has easy terrain which makes it excellent for all kinds of people, except those who cannot walk; (6) it is a complete valley system making a planned unit possible without external conflict. No intrusion of noise pollution, water pollution and this sort of thing. It would be just very easy to manage in terms of intermediate recreation.

Preserving French Pete Valley intact is good sound planning. Opportunities of this magnitude cannot be created but must be recognized and preserved.

If the survival of the American timber industry requires the cutting of French Pete, we are in deep trouble, God help us.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Taylor.

Does anyone have any questions of Mr. Taylor?

Mr. JOHNSON. Yes. Sir, perhaps you could help me on this—French Pete is a relatively small Valley in relation to the Willamette National Forest, and certainly in regards to all of the National Forests in this State, and when you add to that the privately held forests in this State, all of them, it is a very small area—I wonder, do you have any information that you could furnish us as to really is the timber in the valley of significant importance to the entire amount of timber in this State, of importance to the timber industry in this State—do they really need to harvest that timber to obtain the timber industry and the mills in this State?

Mr. TAYLOR. Well, this is a matter of personal opinion, of course, but I say no. There have been many, many areas of the so-called over-ride timber fight, that the work of the cutter incorporates the timber into the mill, in fact areas of greater concern are around that are economically more feasible than this logging would be at French Pete. The furnishing of timber within this area is less than the amount which has been exported to Japan at any time now.

Mr. JOHNSON. Then we are exporting that amount of timber to Japan each year?

Mr. TAYLOR. Yes, as a matter of fact, the timber industry, I feel, is in or if it is in that much trouble that we should be getting timber in terms of importing it rather than exporting timber. We are in trouble with our National resource, because there may be a time when we see our National resource take a very, very deep nosedive.

Mr. MELLEM. May I say something for the record?

Mrs. HAYWARD. Yes, certainly.

Mr. MELLEM. On June 8th and 9th, at Salem, Oregon, there will be two full days

of hearings on log exports before Senator Bob Packwood, who is Chairman of a Subcommittee of the Senate Banking Committee, and he is considering about log exports—so there will be two full days in Salem, if anybody wants to go, you will certainly find out about log exports, that will be the place to go to find out about it then.

Mrs. HAYWARD. Thank you, Mr. Taylor.

Mr. Maxwell, you are next.

Mr. MAXWELL. My name is W. E. Maxwell and I live in Eugene.

The saving of the French Pete area has become almost symbolic of man's fight to save some of his dying world. The ethic of maximum utilization or exploitation of every resource for personal or national gain has led the nation and the world to the brink of irreversible damage to the earth's ecology. This ethic is being applied by those that would log this now unique area. French Pete is valuable as a resource to us and to future generations. It can take some of the recreational pressure off the endangered Three Sisters Wilderness area. It is an exquisite location for the wilderness experience that may help us keep sanity in a confusing civilized world. It could be a symbol of good will by the government in the area of conservation and ecology. It is a beautiful reality when much of our present life represents only illusions. If we can't save something this magnificent, what are our chances in other areas?

Thank you.

Mrs. HAYWARD. Thank you, Mr. Maxwell.

Is Jon Spangler here?

Mr. SPANGLER. My name is Jon Spangler, I am a student at the University and I am a scout master of Troop 6. I am here to testify here tonight both as a private citizen and as the scout master of Troop 6, representing some 20 young men who have been to and enjoyed French Pete.

Others have testified quite well and in detail on the environmental uniqueness of French Pete, which is very important.

Tonight, I would like to point out the spiritual values to me, the fellows in my troop and to many other people. French Pete is a lot more than just the last valley of soil content, wildlife, plantlife and colonies. It is a very, very beautiful and a spiritually uplifting place.

When we go on trips there, it isn't particularly the unique environmental factors which give French Pete its rejuvenating qualities—it's the fact that French Pete is a de facto wilderness area which we have access to in the State of Oregon and can enjoy.

We ask you not to just save French Pete as a living museum of how it used to be in the State of Oregon, but rather as a place to experience, to enjoy, and to learn from. Then, it is kind of hard to learn from or enjoy very much a dead clear cut.

Mrs. HAYWARD. Thank you very much, does anybody have any questions?

(No response.)

Richard Freeman.

Mr. FREEMAN. Mrs. Hayward, Chairman, and panel. I am Richard Freeman of 1140 West 6th Street, here in Eugene. As a member of the Sierra Club and McKenzie Gardening Club, I feel quite concerned about this French Pete area. My first experience with the French Pete area was in 1947, when I took my son, and we approached from Bend and came in to Elk Lake and then further over to Horse Lake and then crossed the Pass at Horse Lake and then came into French Pete Valley from that way.

Now, I have to depend on my very good friends and neighbors, who have been there, to tell me that this is a very unique area. I have in the past hiked over once in the lower part of French Pete. It is a unique area now and it was a unique area then. We must try to save it for future generations.

The reason that I am against this clear-cutting or full cutting is that I have a typical example on a place at Brighton. The cutting of logs near my place has resulted in the start of a log dump on my property. For four or five years I have had four or five hundred tons of logs there, as a result of the cutting of Weyerhauser on the private property above me. Luckily it was on my property that their log dump gave way on due to the snows and rains and not take out the highway bridge about 200 yard below. And I feel that this will be the effect in this French Pete valley if clear-cutting practices start there, or, for that matter, any type of log removing practices start there. It will develop in debris and wash-outs and the deposit of this material in Cougar Reservoir.

I am all for preserving the fish runs in the lower Willamette River, and you can see what all of this industrial waste has done to that—all of this debris in the river and especially Weyerhauser has put all of this material in the River from their mill at Springfield. We are now talking about this clearcutting this beautiful area and I am sure that it will spoil the area for future generations.

I wish to point out the fact of the example at Finn Creek in February of this year, there was a vast amount of debris that closed the highway into Finn Creek, and I am afraid that this would be typical of the result that would occur in French Pete and it would just be lost. This wonderful area would be lost to our future generations. This is on record this problem at Finn Creek and it would certainly be much more destructive in the area of French Pete Creek, and the deposits would be dumped right into the Cougar Reservoir, which is one of our assets, and this will be deprived of future generations if this occurs.

I feel like I must close now, but I feel that this testimony might do some good, and that is the reason that I am here to give this testimony to the people in Congress, and I intend to give a written statement which will be supplied at a later time.

Mrs. HAYWARD. Thank you, Mr. Freeman. Any questions of Mr. Freeman? I would like the record to indicate that Mr. Freeman is not only a Member of the Lane Community College Board of Directors, but also a member of the Eugene Water and Electric Board, and a Director of that group. Mr. Linde, you have a question?

Mr. LINDE. Would you just say for the record for the people who are going to be there, what your thoughts are about this Bill that you are in favor of——

Mr. FREEMAN. I know, but I will make a written statement and send it to them.

Mr. LINDE. The Register Guard reported this fully and gave the source of the story, but it was relatively censored as people clammed up and they weren't willing to permit their stories to be published, or even to be talked about, but it is evident that clear cutting practices have been going on for quite some time above Finn Creek in this area, which did result in a wash-out in the hill, as described by Mr. Freeman, the destruction of several utility poles, and the road was closed for about several weeks—that is the highway—only emergency vehicles were allowed to run on the highway at that time for quite awhile then. I am sure that there was much damage done to this upper area and beyond.

Mrs. HAYWARD. Any more questions? Thank you very much, Mr. Freeman. I have been asked to say that at 9:45 p.m., we will take a five minute recess, after which we will have a very brief slide showing, and then continue with the testimonies. Can I have some indication from those of you who are here, who need to speak within the next 15 minutes—(Responses) I see three, are there any more?

If you could make your statements as brief as possible, I think that it would help all of us, and I want to again say that you could prune your statements and cut the time that you will be testifying, and we will see that the statements are contained fully in the record. So, let's start with you over there (indicating).

Who are you?

Mr. ROSENTHAL. I am Gerritt Rosenthal.

Mrs. HAYWARD. Fine, go ahead then.

Mr. ROSENTHAL. My name is Gerritt Rosenthal and this is a summary of what I would like to say, but it is already a summary.

My name is Gerritt Rosenthal and I represent myself. I have been employed locally for two and a half years as a water chemist for Lane County. In this position, I participate in a water sampling program that measures roughly 20 parameters of data on more than twenty streams in central Western Oregon. This particular program samples these streams four times a year and includes a sample station on French Pete Creek. I would like to include at this time as a part of the record a tabular listing of French Pete Creek water quality data obtained from the Lane County Health Department.

The data shows that French Pete Creek is not a totally unique stream in terms of water quality because there are many very clean streams in Western Oregon, but it does indicate that French Pete is unique among the 40 plus sample sites on more than twenty streams in having the only recorded turbidity of 0.00 parts per million. It also has the lowest "most characteristic or median" turbidity of the streams sampled. I use these terms rather than "average" since French Pete Creek was sampled at flood stage on January 18, 1971, and this high turbidity value (60 parts per million) is not characteristic but would heavily weigh the average to the high side. French Pete Creek also contains a very low dissolved solid content and has an average hardness of 13.6 parts per million (20 ppm would be considered very soft water). Additionally, it sometimes shows a slight bacterial enrichment above that found in other nearby streams such as the South Fork of the McKenzie and the McKenzie River above the Blue River. This is caused either by animal habitation or is an effect of the heavy recreational usage this valley receives. I have seen evidence of recreational usage at all seasons of the year when doing field sampling, even in January. The lower portions of this valley (about 2500 feet) are snow free except during an occasional severe winter storm.

This valley offers several unique features that make it the recreational mecca that it is. It is only two hours from a major urban center, it is low enough to be accessible at nearly all times of the year while still providing access to the high-mountain Three Sisters Wilderness, and it contains a trail with a gentle enough slope that it can be enjoyably hiked by families with children and others not in the mood for strenuous exertion.

It is that particularly peaceful size of stream intermediate between the wide gravel swath of river and the tangled, underbush-hidden diminutive creek. It provides cool tranquility as well as stream side recreation without being so large as to make in-water activities dangerous during most of the year. Additionally, the valley is bounded on all sides by areas of special attraction that have already been designated "Special Interest Areas" by the Forest Service. These include two scenic areas; two geologic areas and a botanical area.

Since it already receives considerable usage, since it has such a wide attractiveness to various types of users, and since it already shows some, albeit small, increased bacterial loading presumably from recreational usages, I would strongly urge and hope that the French Pete Creek Intermediate Recreation Area, Bill (S. B. 866) would become law. It would both preserve natural features and

uses as well as prevent the possible contamination of the watershed through overuse by providing some management of the usage. It is the only valley of this size in this area of the Cascades that can be so managed and would be a fine start toward developing a new concept in semi-wilderness outdoor recreation.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Rosenthal.

Does anyone have any questions?

(No response.)

Mrs. Elizabeth Bruce Riggs is next.

Mrs. RIGGS. My name is Elizabeth Bruce Riggs. I am an Oregon resident, a backpacker and a cross-country skier. I'm told that two weeks ago the Secretary of Agriculture asked the National Forest to increase timber production because of an expected housing shortage. I grew up in an adobe house in New Mexico. We built our own house. When my brother was born, and my mother needed a dark room, and we wanted a porch, we built our own out of mud and straw and water. I don't think that you could build one like that around here. I think that it would melt. I really like that and I think that we forget that there are alternatives to wood frame construction and we have more alternatives than any other culture has ever had before. I don't think that French Pete has to be logged. And I support Senator Packwood's bill.

Mrs. HAYWARD. Thank you. Are there any questions to ask of her?

(No response.)

The next one to testify is Mike McKeegan.

Mr. MCKEEGAN. My name is Mike McKeegan and I just have a short statement that I would like to give.

I would like to say that I was hiking up in the high country last summer for about 15 days and I was used to the quietness and everything and I came down to the French Pete area for nearly a week.

We got there pretty late and we came into the Quaking Swamp area. We got there probably about 10 o'clock at night. About eight o'clock in the morning, we heard the chainsaw starting to go and trees started falling. It kind of unnerves a person and I was very distressed about it. It sure depressed everybody that was with us.

We did a little bit more invertigating and there was an area there where they were clear cutting there. It was just near the top of the French Pete Valley. That really awakened me to the thought of how close clear cutting is to this area.

We hiked on down the trail but didn't quite enjoy it the same. The beauty was still there.

Thank you.

Mrs. HAYWARD. Thank you, Mr. McKeegan.

Does anyone have any questions that they would like to ask Mr. McKeegan?

(No response.)

Mr. Hunter?

Mr. HUNTER. I am Don Hunter. I am most happy to give a statement, but I don't have anything written down. I still might be able to give something later and turn it in.

I am at the University of Oregon, and am the Conservation Chairman of the Obsidians. However, I am making this statement on my own and it will not be officially for the Obsidians.

I was born in this valley, the McKenzie Valley, as my father was before me, and I am sure it was by choice. I have seen other countries and I have gone no place that appeals to me like this beautiful western Oregon. That appeals to me. I hope that it will always be this way.

I used to go up, with my family, up Elk Creek out of Jasper to get away from the city noises and bustle. We would camp up there in the virgin valleys with big trees.

Then when I was first married, we used to go up Little Fork Creek and hike way up the trail there beyond the ranger station there. Later on, we went up Crow Creek and that is farther than the road ending and hiked there, around the virgin trees up there.

Of course, all that is gone now. It is disappearing so rapidly. I think that most of these people this evening have spoken so logically about the value that we are trying to preserve and are doing so unselfishly. Not only so that we can find interesting places to get away from civilization, but so that we know that other people who will follow us will not be denied this opportunity. We are trying to preserve something for them. It is not asking too much to preserve one unique valley.

I say that this is a unique valley mainly because it is the only one left. I have been reading about Pete French recently, the Eastern Oregon pioneer and cattleman, whose name the valley bears. And I was thinking about the pioneers as they came across and certainly they endured hardships and a very difficult life. It wasn't for riches, other than perhaps the prospectors, that they came West. Probably it was for the purpose of getting away from civilization, getting away from close neighbors. That area, the frontier, is now gone. We can't pull up our stakes and move to a new frontier in the continental United States, but we can save a little bit of what it was like if we don't give multiple use a definition of being a little bit of everything permitted in an area. Let's save some areas for logging and let's save other areas for recreation. Thank you.

Mrs. HAYWARD. Thank you, Mr. Hunter. Does anybody have any questions?

I have two more slips before me of people who are waiting to testify, Charlotte Schellman and Myra Miller. Are there others besides those two?

So, we have several more. Then if that is the case, we will now take a five minute break and afterwards we will have a brief slide show and then we will complete our testimony.

(Recess for five minutes.)

Mrs. HAYWARD. Let us come to order so that we can get our slide show started. It takes forever to get the lights out in this room.

Mr. RICHARD COOKE. The beauty that I see of French Pete is not the scenic beauty that the Forest Service sees there, but the very personal, intimate beauty that exists on a very small scale throughout the valley.

In the past four years I have visited there about 18 times. I would say about five times I have spent the night. I am a photographer, but I have many friends who use it for recreational activities. One of the purposes of relating to the area with my equipment, is that I can share it with other people.

(Slides are shown.)

(Applause.)

Mrs. HAYWARD. Thank you for sharing those with us.

Mr. LINDE. Mr. Cooke, are you making any arrangements for these slides to be available for the hearing in Washington, D.C.?

Mr. COOKE. I don't have anything to do with that.

Mr. LINDE. Well, your slides seem to me to demonstrate that you are a photographer and artist. I wonder that if as an artist and photograher that you feel that some selective logging is going to significantly impair the valley?

Mr. COOKE. I am against that in any form, even using the chain saw to clear the logging trails. I am very concerned about that place staying as it is, and the only way to do that is to keep logging out and not make it easy to reach.

Mrs. HAYWARD. Thank you.

(Poem was read.)

Mrs. HAYWARD. While we were having our intermission, I counted the slips that we had left and I think there were something like 15. So, I am going to take another opportunity to remind you that if you have statements written, that you can summarize them briefly for us and then you can give the written statement for the people down here and it will be included in the record.

Mr. Alva Good?

Mr. ALVA GOOD. I am Mr. Good and I am now a resident of the State of Oregon, but I am still a member of the Washington State J.C.'s and involved in the government there. I am very much appalled at the cause of this meeting. The fact that this meeting couldn't have been held here, instead of in Washington, D.C. This reason is the reason that people are losing confidence in the government in this country. It is the reason that is bringing about legislative reforms, because of the people that are now going to Washington and the representatives are not being fair to us or representing us in our own areas.

I am a native of Oregon, I was born in Eugene and raised here. I went to the University of Oregon. I did come into this hearing cold and did not have a prepared statement for it. My feelings are very mixed about clear cutting in the areas, but I do know the area that you are talking about and personally, not representing the State of Washington, I feel that this area should be left as it is.

On the face of the dollar, this Country says, "In God We Trust" and we don't need to cut this area.

Mrs. HAYWARD. Thank you, Mr. Good.

Charlotte Schnellman?

MS. CHARLOTTE SCHELLMAN. I wish to make a very strong plea for the saving of the French Pete Valley as an unroaded, unlogged area. My name is Charlotte Schellman; I am a research chemist at the University of Oregon. I am a member of the executive committee of the Eugene group of the Sierra Club, but this statement is made on behalf of my family. We believe that it is imperative that areas such as French Pete should be preserved in a nearly natural state so that our generation and future generations will be able to experience what much of our state was like before man found it necessary to log so much of our forests.

Unlike the wilderness trails, which are at much higher elevations, the trail which parallels the main creek of French Pete for many miles is easily accessible for all but a few days in the normal year.

With the rapidly increasing pressures on the much more fragile wilderness areas at higher elevations, it is extremely important that areas be set aside to attract some of these users to other, more accessible areas. Many critics of the wilderness concept have argued that such areas are not accessible to more than a hardy few. French Pete can offer an experience similar to the wilderness to a much broader spectrum of the public, who, although they may not be able to hike in the high wilderness, still want to escape from the roadside camp atmosphere with its crowding, noise and exhaust fumes. Such a buffer as French Pete is an ideal transition from crowded recreation areas to wilderness. We need more such facilities, not less.

Those who wish to log the French Pete drainage claim that it is needed to fill the demand for timber. Surely the forest products industry of Oregon can survive without the less than 20,000 acres which we are asking to be set aside. If the industry is truly concerned about providing products and jobs for America, they should show this concern by investing in a sincere, realistic research effort to find ways to better utilize the incredible waste of material which is left in the areas they log each year. The lumber and wood products industry spends only one dollar for research for every five hundred and ninety dollars worth of products sold; this is one of the worst records of any industry in this country. Such research would provide employment for many scientists who have been made jobless by the cutback in the aerospace industries, for example.

The kind of recreation provided by the French Pete Valley, if managed as an Intermediate Recreation Area, is both cheaper and healthier than car, trailer, or camper camping. The argument that wilderness or near wilderness is for the idle rich is utter nonsense.

It is imperative that we save French Pete and other similar areas scattered across our country, before none remain to be saved. Their value to us and to future generations is far beyond the logs which would come from this small area.

Mrs. HAYWARD. Thank you Ms. Schellman.

Myra Miller?

Ms. MYRA MILLER. I am Myra Miller, a faculty member of the School of Community Service and Public Affairs at the University of Oregon.

I grew up in the Northwest. I have sailed its waters, climbed its mountains, rested in its forests and splashed in its streams. In the unspoiled out of doors I've found strength to survive in a world increasingly complex and alienating.

If my life is to have meaning, it will be through lives I have touched and through my willingness to speak out—and at this time I speak out for preservation of an area which man cannot duplicate but can only cherish.

Others have spoken of the geology, ecology, scenery and etc. of French Pete. I speak of it with love by paraphrasing Rabbi Hillel:

If I do not stand for myself, who will stand for me?
If I do not stand for others, who will?
If not now, when?
I stand for French Pete.

Mrs. HAYWARD. Thank you, Ms. Miller.

James Anderson?

Mr. JAMES C. ANDERSON. I don't know what I can add to this remarkable hearing, but I know that I have been tremendously inspired by this outpouring of a concerned citizenry. I have spent much time hiking in the Western Cascades, mostly in my native state of Washington, so I well know the marvelous mental and physical regeneration that comes from a few days in the woods, away from the grossest features of our Gross National Product. It is essential to keep such places as the French Pete Valley in its present natural state for the possibility of such return to untrammeled wilderness. To retain French Pete in its present natural condition is one step toward regaining our national wits and stopping the trend toward our collective suicide in the pursuit of the great God of economic growth, which is just now wisely beginning to be questioned.

Mrs. HAYWARD. Thank you, Mr. Anderson.

David Leighton?

(No response.)

Mr. Leighton left a note that he would like to make the point that as long as the Pacific Northwest exports so much timber and is so lax in its reforestation practice, the need to log French Pete is not proven.

He has a somewhat longer statement and I am going to ask that that be included in the record.

Arnold Gibson?

Mr. ARNOLD GIBSON. My name is Arnold Gibson. I am a student at the University of Oregon.

My testimony at this hearing comes in the form of a question to Congress: "How can you possibly justify opening this God-created wilderness to the same industry which has been all but banned from our cities for crimes against healthy human beings?"

Mrs. HOWARD. Thank you, Mr. Gibson. Does anyone have a question for Mr. Gibson?

(No response.)

Harry Van Oudenallen?

Mr. HARRY VAN OUDENALLEN. I don't have a prepared text and I have mixed feelings about the whole couple of hours that I have sat here. I don't consider myself extremely interested in saving French Pete and yet I can't count the number of times that I have gone out to French Pete to see it and to photograph it so that it has great meaning to me. I am a transplanted New Yorker. I have learned to say Oregon and Willamette and I can't help but feel that there are more New Yorkers and more Californians who will also try, like me, to hide in Oregon.

With the increase in population, the use of French Pete will grow and I would like to see it remain a wilderness area. I feel somewhat indignant about coming to be heard in Eugene and yet the people who should be listening aren't here. That hearing takes place in Washington, and the people who are for logging French Pete, I don't see them, and yet this is the place to be heard. Somehow, if the Forest Service sees itself as being able to sell timber, all is well and good, but my taxes would go for a similar bribe or a plea for them not to log French Pete, and I will pay any money in taxes that is necessary.

Mrs. HAYWARD. Thank you very much.

Courtney Shives?

Mr. COURTNEY SHIVES. My name is Courtney Shives.

I wish to make a very brief statement of what I consider a most important issue in the French Pete controversy and that is, must we always adopt the short range viewpoint and do what is politically and economically expedient at the moment or should a long range approach be adopted even if it requires some current sacrifices?

No doubt the timber industry representatives will present many facts and figures to economically justify the logging of French Pete at this time. I do not question that the logging of French Pete will financially benefit a small segment of the Oregon population. But what price must future generations pay for the current financial gain of these few? If a value of millions of dollars is placed on a work of art for aesthetic reasons, should not a similar lofty value be placed on an outstanding artistic work of nature. Value is also a function of scarcity and certainly Oregon Cascade Valleys undamaged by man are a scarce resource, the French Pete being only of only three such valleys remaining.

A poor farmer in Italy was recently offered over a million dollars to part with a Bottocelli painting which he had inherited. Despite his obvious financial need he refused the offer because the painting is "the most beautiful thing I know." Has not the time come for more of us to adopt the thinking of this simple farmer and place a greater value on things of beauty?

If we cut French Pete and are wrong, the decision is irreversible. But if we decide not to cut French Pete, future generations can always reverse our decision. Let us leave them some choices.

Thank you.

Mrs. HAYWARD. Thank you Mr. Shrives.

I understand that Mr. Don Willner has a statement to be read by Mr. Holway Jones.

Mr. HOLWAY JONES. It is my privilege to present this statement from the State Senator, Mr. Don Willner, who as you know is the Democratic Candidate for the United States Senate.

"I would like to compliment the Oregon Committee on Interior and Insular Affairs for providing this unique opportunity for Oregonians to express their view on the future of the French Pete Drainage. I am disappointed that the senior senator from Oregon did not judge this issue worthy of hearings in Oregon.

"French Pete should be saved. I see the issue not as a symbol of a great tug of war between industry and environmentalists, but simply as a question of our priorities, and commitment, with respect to providing easily accessible year-round recreation for the masses of Oregonians who want to walk along a rushing stream in one of the last uncut, unroaded valleys. Shouldn't we reserve this unique place for those who forgot to get their wilderness permit? Shouldn't we provide a place for the fisherman, camper, and boater at Cougar reservoir to take his family for an easy hike along a swift cold stream? Shouldn't we provide the unique experience of a hike-in organizational camp for Boy and Girl Scouts? The Intermediate Recreation Area concepts include all these things.

"But what about those things which are excluded in an Intermediate Recreation Area? I am most concerned about the future of the timber supply in the Pacific Northwest. French Pete, however, is not the best place to grow trees. Moreover, the current forest cover is not a 400 year old, rotten, decadent stand. We can delay timber harvest for 200 years, until 2172, and still have a stand which is younger than most of the old growth on the Willamette National Forest. Sacrificing this unique area for some 150 year old trees cannot be true multiple use. I am also concerned about the cost of roading the area. How tragic it would be if the public had to subsidize road construction in the valley, just to turn a few trees into chips, or to help some private landowner ship his logs to Japan.

"Saving French Pete is a non-partisan issue, and I am pleased to voice my support for Senator Packwood's bill to create the French Pete Creek Intermediate Recreation Area."

Mrs. HAYWARD. Thank you.

John LaBranch?

(No response.)

Michael Ryan?

Mr. MICHAEL RYAN. Chairman and members of the panel. That is lengthy so I will just sum up the main points that I was making.

That is, I am conerned with population growth and when you consider that French Pete is only about an hour's drive from the state's second largest metropolitan area. In 1957, at the time of the Secretary of Agriculture's initial decision to classify French Pete Creek and several adjacent valleys for "multiple use", an estimated 50,000 people lived in the Eugene-Springfield area. Today there are probably about 140,000 and by 1990, there may be as many as 235,000. Nowhere in the Oregon Cascades are there provisions for large scale recreational use of an untouched forest valley. French Pete Creek could be a recreational bonanza for Oregon. Even if we had Zero Population Growth now, the population is going to grow in the next century and there is going to be more and more pressure to use these forest areas. To log this over now, I feel is a detriment to the quality of life for the future citizens of this area.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Ryan.

Do you have a copy of your statement that you would like to put into the record?

Robert Craig?

Mr. ROBERT CRAIG. My name is Robert Craig and I have been a lifetime resident of Oregon. I have been to French Pete Valley several times and I know that it is a beautiful area. I think that this area should be preserved from logging and road building. I support Senator Packwood's bill to make French Pete Valley into an Intermediate Recreation Area.

Mrs. HAYWARD. Thank you, Mr. Craig.

Do you have a copy of your statement?

Mr. CRAIG. No.

Mrs. HAYWARD. Thank you very much.

Is Fred Swanson here?

Mr. FRED SWANSON. My name is Fred Swanson and I will try to keep my remarks brief. In the testimony here today, several people have mentioned the Packard Creek area. Mr.

Elphinson went with me several weeks and we hiked into this area. I think what we discovered there has bearing upon French Pete. That was that the first few miles of what used to be the trail into Packard Creek had been replaced by very ugly roads and thereafter the trail was fine, and is a very beautiful trail, comparable to the French Pete Trail, in fact, some what I think that it is more beautiful.

What is interesting about this is that the road was on Forest Service land the beautiful untouched areas are on private holdings. It seemed like there was something wrong here.

Ever since the issue of preserving French Pete flared up again in 1957, the area has been visited by increasing numbers of people. Most of these people do not seek a strenuous deep penetration of the wilderness, although French Pete also offers this to hikers with more ambition. These people seek, instead, a pleasant walk in an area substantially free of man's influence. Hikers seek wilderness, not a managed forest; this is evident when one views the deserted trails that are fragments in the areas which have been subjected to roading and logging. If the Forest Service were allowed to cut and section the trails in French Pete, most of the hikers would go elsewhere, into another wilderness. The only wilderness near Eugene which is protected in perpetuity are the established Wilderness Areas, and these are already receiving too much daily hiker use. The Forest Service wants to reduce the overuse of the protected Wilderness Areas, yet they give no assurance of protecting the other places, such as French Pete, where day hikers want to go.

In the Forest Service's French Pete Creek Environmental Statement is a statement concerning the development of the lower area, and I quote, "The plan presently provides that development of the lower canyon will be deferred pending a study to determine whether a road can be built and the area can be logged." This lower canyon area is extremely popular with the hikers, especially the day hikers. Their main concern seems to be with the unstable soils which would make a road difficult to build, instead of with the heavy recreational use of the area, which would be disturbed by the road.

It further states, "salvage and improvement cutting to enhance recreational values" means that timber harvest comes first and recreation is what's left over. The Multiple-Use Sustained-Yield Act of 1960 was supposed to help prevent this imbalance of uses.

I believe that Senator Packwood's bill, S. 866, would go a long way in restoring this balance.

Thank you.

Mrs. HAYWARD. Thank you.

Does anybody have any questions that they would like to ask of him?

(No response.)

We have statements here from Boyd Kramer and David Howe and I would like to ask that they be included in the record at this point. They were here for quite awhile and then had to leave.

Mr. George Adams?

Mr. GEORGE ADAMS. My name is George Adams. I have lived in Eugene for several years and in Oregon for 50 years.

Mr. Chairman and members of the committee:

I would like first to thank the students at the University of Oregon for their very generous gesture in funding the court reporting services required for this hearing.

I should also like to comment that I was very disappointed that Oregon Senator Mark Hatfield and Washington Senator Henry Jackson have not seen fit to hold hearings, field hearings on Senate Bill 866. It is well known that the forest products industry opposes this bill and the industry representatives can easily afford to travel to Washington for the hearings to be held there on May 25, while citizen proponents are rarely able to go and do so. So denial of field hearings constitutes a procedure heavily biased in favor of commercial timber industry.

There is probably little that I could say about this valley that others have not said better. My only visit to the area penetrated only about half way to the headwaters, from which point I climbed up to Pyramid Peak, near the southern boundary of the proposed area.

However, as a young man I tramped over hundreds of miles of trails, running over both public and private land, with majestic old growth trees reaching upward to the sky overhead. With such an abundance of opportunity to enjoy the unscarred beauty of the world's greatest stands of conifers, it hardly occured to me that such experiences could nearly vanish within far less than one man's lifetime.

My own children have been able to enjoy a dimishing number of such experiences, generally going much greater distances from their city homes to find woodlands still unravished. My grandchildren must hurry if they are to experience the cathedral-like grandeur of prime old growth forest before the chain saw levels it all. Unless, that is, we of my generation are willing to fight our contemporaries who see nothing in such virgin forests but the dollars which could temporarily be gleaned by harvesting in a few short years what nature took hundreds of years to grow, turning the land into short-rotation timber farm at best, or a wasteland at worst.

Our opponents cry out: "You already have thousands of acres of wilderness", and yes, indeed we have, no thanks to them either. But what we have is mostly the land too barren and rocky, at too high an elevation, and too costly and difficult of access to incite the greed of the forest industry. Readily accessible lands, at moderate elevations, and not too far from the population centers of our cities, have nearly all been logged, or are in the process of being logged. We need a few preserves such as French Pete, where city dwellers of tomorrow can learn what Joyce Kilmer meant when writing the words, "Only God can make a tree."

I say to you, ladies and gentlemen, that a civilization which cannot afford to save the natural shrines which inspire even the irreligious to reverence, is poor indeed. I shall have to tell my grandchildren and their children, if I am fortunate enough to live to enjoy them, that my generation was so eager to mine the last of the great old-growth forests in this region which once was covered from the shores of the Pacific Ocean to the high Cascade with them, that we couldn't even save an occasional sample of that magnificence for them to enjoy.

Must we admit to our posterity that we were so impoverished in spirit and so greedy for temporary gain that we were impelled to lay waste to every last acre of commercially desirable saw timber? I truly hope not.

Thank you.

(Applause.)

Mrs. HAYWARD. Thank you, Mr. Adams.

Do you have a copy of your statement for the record?

Mr. ADAMS. Yes.

Mrs. HAYWARD. William Engs?

Mr. WILLIAM D. ENGS. My name is William Engs.

I support the French Pete Intermediate Area proposal because people need to be assured of having a roadless recreation experience.

By roadless recreation experience, I mean essentially what has been proposed for the French Pete Intermediate Recreation Area; the provision for roadless areas where people can go and not come into contact with motor vehicles and extensive timber harvesting.

As things stand now, people cannot be assured that there will be any such areas in the future. I do not expect dedicated Wilderness Areas to provide for this type of experience. What is being used by people now is taken for granted—these areas are subject to road building and timber harvesting—here today and gone tomorrow. This is under the Forest Service Multiple Use management, and eventually the qualities essential to the roadless recreation experience will no longer exist anywhere. There needs to be some assurance that some of the areas which now provide a roadless recreation experience shall continue to exist in the future. The French Pete Intermediate Recreation Area proposal would provide assurance of this kind of experience—as well as keep one of our significant natural areas intact with a minimum of management.

Thank you.

Mrs. HAYWARD. Thank you very much, Mr. Engs.

Does anyone have a question for Mr. Engs?

(No response.)

Thank you.

Our 125th witness to testify is Roger Mellem.

Mr. Roger?

Mr. ROGER MELLEM. Thank you. I am Roger Mellem of 2870 Potter Street, Eugene, Oregon. I am here representing the People for French Pete Committee which was formed about two years ago to help fight plans for logging French Pete. It gives me pleasure to thank all of those people whose hard work made it possible for us to appear before you today and present our views.

On April 6, 1971, I had the privilege of testifying before the Subcommittee on Public Lands of the United States Senate Committee on Interior and Insular Affairs. The Subcommittee held three days of overnight hearings concerning timber management and clear cutting practices on the public lands, and these resulted in the recently issued clear cutting guidelines report. My statement for the Subcommittee concerned United States Forest Service mismanagement of French Pete Valley, and how their plans and actions betrayed the principle of multiple use. I request that my testimony from last year be included in the hearing record at the end of these remarks.

At the turn of this century, there were 273 Oregon Cascade valleys more than five miles in length that were roadless and untouched. Today French Pete Creek Valley is one of only seven of those 273 valleys that are still unintruded by roads or logging operations. The Forest Service has already immorally committed 266 western Oregon valleys more than five miles long to the rape of intensive roading and clear cutting. French Pete is our only remaining unspoiled valley in this region low enough to be accessible throughout the year, and it is inconceivable that the logging of this valley can be justified as securing multiple use for our Oregon forest resources.

In my attached statement I have detailed the callous and underhanded tactics employed by the Forest Service in their efforts to make French Pete just another backed up valley. They simply refused to consider seriously the alternatives presented by the Save French Pete Committee and others.

We commend Senator Bob Packwood for the excellent fight he has waged to save French Pete, and we note with sadness and disgust the effectiveness of Senator Mark Hatfield's decision not to press for field hearings in Oregon on this issue. Senator Hatfield has time and time again repeated his support for the Forest Service decision to log this beautiful place. We still hold out

a little bit of hope that he will choose to include French Pete in the Omnibus Oregon De Facto Wilderness bill he promised conservationists more than one year ago he would introduce, but not much; the longer he waits before introducing that bill the clearer it becomes that he has little or no intention of pushing the wilderness bill.

We would be very happy if Senator Packwood's bill, S. 866, was passed by Congress; we would prefer, though, that this area be added to the National Wilderness Preservation System.

Last November 18, more than four hundred Eugeneans participated in the "Second Anniversary Save French Pete Rally and Rock Mesa Preservation March," an effort by students and townspeople who favor preserving America's remaining wilderness lands. Two news stories from the *Eugene Register-Guard* describing this day-long event are attached and I would appreciate their being printed in the official hearing record.

And Supreme Court Justice William O. Douglas sent me a note which should be placed in the record. It reads: "Please put in a word for me on the side of French Pete at your May sixteenth rally. Yours faithfully, W. Douglas."

A century ago the Oregon Territory was covered with one of the great primeval forests of the world. We need to retain French Pete as a memory of what it once was like.

Thank you.

(Applause.)

Mrs. HAYWARD. Thank you very much, Mr. Mellem.

As far as I know, that includes all the people who wished to testify. Is there anybody else who would like to make a statement at this time?

If there is nobody else that wishes to make a statement at this time, then I declare that the hearing is ended.

UNIDENTIFIED SPEAKER. I would like to express a deep appreciation to the committee and the people who have carried this on throughout the day.

(Applause.)

(Hearing adjourned at 10:40 P.M.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON THE HIGH SPEED GROUND TRANSPORTATION ACT OF 1965

A letter from the Secretary of Transportation, transmitting, pursuant to law, the fifth annual report on activities carried out during 1971 under the High Speed Ground Transportation Act of 1965 (with an accompanying report); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Procedures for Evaluating Reasonableness of Petroleum Pipeline Rates Need Improving", Department of Defense, dated September 20, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on the Judiciary, without amendment:

S. 2300. A bill for the relief of J. B. Riddle (Rept. No. 92–1188).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week." (Rept. No. 92–1189); and

H.J. Res. 807. Joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week" (Rept. No. 92–1190).

By Mr. ALLEN, from the Committee on Government Operations, with an amendment:

S. 164. A bill to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums (Rept. No. 92–1191); and

S. 244. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus property to State fish and wildlife and outdoor recreation agencies (Rept. No. 92–1192).

By Mr. ROTH, from the Committee on Government Operations, without amendment:

S. 718. A bill to create a catalog of Federal assistance programs, and for other purposes (Rept. No. 92–1193).

Mr. ROTH. Mr. President, at the request of the distinguished chairman of the Government Operations Committee (Mr. ERVIN), I report for that committee S. 718, the Program Information Act. This legislation, which has been the subject of extensive hearings in both Houses, passed the Senate as S. 60 during the last Congress.

The bill is the outgrowth of the 8-month study conducted by my staff when I was a Member of the House. It would call upon the Office of Management and Budget to publish a catalog of Federal domestic assistance programs. Such a catalog would be of assistance to the State and local governments and others who apply for Federal grants-in-aid. Congress and the Executive can also benefit from this effort.

While the OMB is currently producing a much improved Catalog of Federal Domestic Assistance, this bill calls for more current updates as well as more complete financial information. It also provides a general legislative mandate for the publication of such a vital informational source for users of domestic grants and others.

By Mr. TALMADGE (for Mr. JORDAN of North Carolina), from the Committee on Agriculture and Forestry, without amendment:

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended (Rept. No. 92–1194).

By Mr. TALMADGE (for Mr. EASTLAND), from the Committee on Agriculture and Forestry, with amendments:

S. 3947. A bill to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes (Rept. No. 92–1195).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

C. Robert Moore, of Washington, a Foreign Service officer of the class of Career Minister, now serving as Ambassador Extraordinary and Plenipotentiary to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of Equatorial Guinea; and

John N. Irwin II, of New York, to be U.S. Alternate Governor of the International Monetary Fund and U.S. Alternate Governor of the International Bank for Reconstruction and Development; U.S. Alternate Governor of the Inter-American Development Bank; and U.S. Alternate Governor of the Asian Development Bank.

AUTHORIZATION TO REPORT VOCATIONAL REHABILITATION BILL, S. 3987 AND H.R. 8395, BY MIDNIGHT, THURSDAY, SEPTEMBER 21, 1972

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. Cranston, I ask unanimous consent that permission be granted to report the vocational rehabilitation bill, S. 3987 and its companion bill, H.R. 8395, by midnight Thursday, September 21, which would extend the deadline from the present deadline of midnight tonight.

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

AUTHORITY TO PRINT AS A SENATE DOCUMENT THE REPORT OF SENATOR INOUYE CONCERNING HIS VISIT TO THE PHILIPPINES (S. DOC. NO. 92–88)

Mr. INOUYE. Mr. President, shortly after my designation as chairman of the Foreign Operations Subcommittee of the Appropriations Committee, I took advantage of the late August congressional recess to make a personal tour of the Central Luzon area of the Philippines. I made this visit to investigate and personally evaluate the extent of the damage which has been incurred from the recent floods in that area.

I arrived in Manila early on the morning of August 27 accompanied by Mr. Cleo Shook, director of the Korea-Philippine Desk at AID, and my administrative assistant, Mr. Eiler Ravnholt. I spent the next 6 days on the Island of Luzon touring six of the eight most severely flooded provinces by helicopter, by car and by jeepney. I met with the political leadership, including two lengthy and private meetings with President Marcos both upon arrival and again just before my departure. I talked not only with the President but with opposition leaders, with provincial governors, mayors, and barrio captains. I was briefed in depth by both American and Philippine officials.

My visit was not limited to an inspection of the flood, for I also visited with the American Chamber of Commerce representatives concerning their problems, a delegation from our Peace Corps contingent, Philippine business leaders, and others. I visited Clark Air Force Base and our naval base at Subic Bay and I talked with the commanders of both.

This was not my first visit to the Philippines. I was there is 1959 as a newly elected Member of Congress. I was there again in 1965 as a member of the Mansfield mission. I revisited some of the same areas.

The damage to the Philippines in terms of damaged crops, homes, and schools destroyed, food stocks lost, flood control and irrigation systems and roads and bridges destroyed or damaged was cause

for deep concern and will require special efforts and assistance. The attitude of the Philippine Government, and the Philippine people, in terms of tightening their national belt and exerting maximum effort to overcome the effects of the disaster was heartening. So also was the feeling of gratitude and friendship which was evident toward Americans for their outstanding efforts to provide assistance during the period of great emergency.

Because I believe it is of importance, not only in determining what additional steps we may take to be of further help at this time, but also in further enhancing and strengthening our relations with the Philippines, I wish to share with you this report on my recent journey to the Philippines.

I ask unanimous consent that this statement and my report be printed as a Senate document.

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

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. MANSFIELD. Mr. President, may I say, on the basis of the firsthand report brought back by the distinguished Senator from Hawaii after a personal inspection of the flooded areas in Luzon, the Committee on Foreign Relations, before reporting out the aid authorization measure, specifically allocated $50 million for relief in that area, and I think the Senator is entitled to a great deal of credit for bringing his firshand report and observations to the attention of the Senate and the committee as well.

Mr. INOUYE. Mr. President, I thank the majority leader.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. KENNEDY:

S. 4009. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts. Referred to the Committee on Interior and Insular Affairs.

By Mr. PASTORE (for himself, Mr. GRIFFIN, Mr. RANDOLPH, Mr. KENNEDY, Mr. COOK, Mr. BEALL, Mr. HUMPHREY, Mr. NELSON, Mr. BIBLE, Mr. MOSS, Mr. COTTON, and Mr. PROXMIRE):

S. 4010. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on the Judiciary.

By Mr. NELSON:

S. 4011. A bill to establish a Federal Medical Malpractice Reinsurance Program. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 4009. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts. Referred to the Committee on Interior and Insular Affairs.

BOSTON NATIONAL HISTORIC SITES ACT

Mr. KENNEDY. Mr. President, I am introducing today a bill to establish the Boston National Historical Park in the Commonwealth of Massachusetts. I ask unanimous consent that the full text of the bill and related correspondence be printed at the conclusion of my remarks. I am pleased to announce that Congressman THOMAS P. O'NEILL, JR., is introducing companion legislation in the House.

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

(See exhibit I.)

Mr. KENNEDY. Mr. President, the legislation I introduce provides for an historical park to be established in the city of Boston to include Fanueil Hall, the Paul Revenue House, the old State House, the Old North Church, Bunker Hill, and the Old South Meeting House if the present owners of these sites choose to either enter into cooperative agreements with the Secretary of Interior or sell or donate the sites to the Secretary. This legislation not only authorizes the Secretary of Interior to acquire by donation or purchase with the consent of the owner but provides authority for him to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, or private organizations currently maintaining these sites. These agreements provide that preservation of historic sites may be assisted by the Secretary of Interior while the site is retained in municipal, State, or private ownership. Any such agreement would assure that maintenance under existing ownership is satisfactory to both the owner and the Secretary, and that any improvements or changes be made by mutual agreement.

It is this kind of mutual agreement that best serves the unique characteristics of these precious historical sites. It is this kind of partnership which can best assure that adequate funding is available for the restoration and preservation of the sites while at the same time assuring that those who have struggled over the years to care for and protect these sites will retain control over the maintenance and operation if they choose. It is this kind of partnership between the Federal Government and local government and private groups that provides for shared funding and shared responsibility that is the direction we must take if our natural and historical resources are to be preserved and protected.

On July 17 I met with distinguished representatives of government, community, and private groups interested in developing the best possible plan for the protection of historic sites in Boston. And this legislation includes many of their recommendations—a visitor center, provisions for the Department of the Interior to study additional sites for inclusion in the park such as the Boston Common, the Old Corner Book Store, Dorchester Heights, and several burying grounds, and adequate assurances that if no negotiated agreement can be reached by the owners and the Secretary of the Interior and the present owner does not wish to sell or donate, that no sites will be taken by eminent domain.

For initial consideration by the Secretary of the Interior, I have suggested six sites within the city of Boston that are most suitable for inclusion in the national historical park.

The legislation also provides that the Secretary of the Interior may accept any additional properties which he feels are appropriate. It is my hope that in the coming weeks, the Department of the Interior, working with the Commonwealth of Massachusetts, the city of Boston, private organizations, and the concerned citizens of Boston, may make additional suggestions for inclusion in the park. A most important provision of the bill establishes an Advisory Commission to be composed of members recommended by the Governor of Massachusetts, the Mayor of Boston, and representatives of the organizations which have entered into cooperative agreements with the Secretary of the Interior.

On March 3, 1972, a bill which I introduced to establish the Longfellow National Historic Site passed the Senate, and I am hopeful that companion legislation introduced by Congressman THOMAS O'NEILL, Jr. will be acted on soon in the House. This legislation preserves the outstanding Longfellow home site in Cambridge, Mass. The Longfellow home is not only a fine example of 18th century architecture, but it has exceptional historic significance. It served as George Washington's headquarters in 1775 and 1776, and it was the home of the beloved American poet, Henry Wadsworth Longfellow, from 1837 to 1882.

But to deal individually with each historical site in which Federal participation might assist in its preservation is a lengthy process and time takes its toll on these precious historical resources while we delay. In this Congress and in the 91st Congress, I introduced legislation to establish the Bunker Hill National Historic Site. While this legislation is pending, we receive the distressing reports on the deteriorating state of the monument and grounds. I have included the Bunker Hill Monument in this bill, not only in hope of fast action to assist in its preservation, but because it clearly ranks as a historic site which should be included in the national historic park.

There are two major reasons for consideration of comprehensive legislation to include all those sites of historical significance in the city of Boston. First, we are familiar with the disturbing accounts on the state of disrepair at some of these historic sites. The Old State House has not had new plumbing or heating since 1880. Fanueil Hall visitors may witness cement falling from its outer apron. Bunker Hill is distinctly uncomfortable during the winter months as the heating situation deteriorates. The 1960 Final Report of the Boston National Historic Sites Commission warned:

Even though volumes have been written to extol the importance of Boston's history in the Colonial and Revolutionary periods and despite the fact the written record of a resplendent tradition may be complete, it is our misfortune today that the ravages of time and change have been so overwhelm-

ing and destructive of the physical setting that produced the movement and events which weighed so heavily in transporting American Colonies from a status as dependencies of England into full-fledged independence.

Local and State action since that date has demonstrated the concern of the elected officials and citizens of Massachusetts for these sites, but clearly the Federal Government can play an effective role by providing funds to assure adequate maintenance of the sites.

Second, as we move toward the bicentennial celebration, action is needed at every level of government to assure not only that visitors will not be disappointed, but that these homes and halls and monuments will be able to withstand the increased attendance. While we go ahead with our planning and programs for the celebration year, it seems clear that a Boston National Historical Park along the lines of the Independence National Historical Park is the most effective way to insure uniform consideration of these sites of major significance in the allocation of funding.

As the 1960 commission report states:

At no time in American history has any one place ever played a more vital role or exerted a greater influence on "the course of human events" than the town of Boston between 1760 and 1776.

I would like to include a brief account of the historical significance of the sites included in this legislation for first consideration for inclusion in the park:

First, Fanueil Hall is known as the "cradle of liberty." It was here that colonial resentment was turned into organized, effective action toward American independence. On a motion of Samuel Adams on November 2, 1772, a committee of correspondence was formed "to state the rights of the Colonists—and to communicate the same to the several towns and to the world." Fanueil Hall housed the first Boston town meetings.

Second, Paul Revere House—It was from this home that Paul Revere took his famous ride. And on the first anniversary of the Boston Massacre, Paul Revere used the windows of his home to put on a graphic exhibition in candlelight of the dreadful day in King Street.

Third, Old North Church where Paul Revere hung the signal lanterns the night before the battles of Lexington and Concord is still used as a church today. The legislation provides that no control over its use as a church shall be imposed by any agreement with the Secretary of Interior. The day after Longfellow visited the church he composed the lines:

Listen, my children and you shall hear
Of the midnight ride of Paul Revere . . .

Fourth, Old State House was characterized in the 1960 Commission Report as the most important public building in American history prior to the Declaration of Independence. In February 1761, James Otis made his impassioned speech of which John Adams wrote:

Then and there the child Independence was born.

The Old State House also figured prominently in the Stamp Act riots and the Boston Massacre. The famous circular letter of 1765 sent out to other assemblies was the means of bringing together the Stamp Act Congress.

Fifth, Bunker Hill—In June 1775, a band of militiamen from Massachusetts, New Hampshire, and Connecticut, in an attempt to drive the British from Boston fought off two assaults from well-armed British soldiers, but finally suffered military defeat.

But their belief that independence was attainable grew from their assessment of their own strength and resourcefulness here at Bunker Hill.

Sixth, Old South Meeting House—On November 29, 1773, five thousand citizens resolved that tea should not be landed in Boston. When word returned that the tea would not be moved from Boston, Samuel Adams stood in the pulpit of this meeting house and said, "This meeting can do nothing more to save the country" and citizens disguised as Indians rushed to Griffin's Wharf for the famous Tea Party.

The Boston National Historical Park will not serve just as a collection of war memorials, but as a tribute to the real beginnings of self-government in this country. Equally as important as the spirit of independence was the spirit of unity among the colonials. Equally as important as the military battles that marked the beginning of this independent nation, were the town meetings and charters and elections which formed the basis of our system of checks and balances, our Constitution, and the Congress. We cannot let time and the strain of expanding populations and communities wipe out these precious moments from the past. Only a cooperative effort by the Federal, State, and local governments working with the citizens of Boston who have guarded these treasures over the years can insure that the final note in future history textbooks will not read—these landmarks of history lasted until the 20th century.

EXHIBIT 1

S. 4009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Boston National Historic Sites Act of 1972".

BOSTON NATIONAL HISTORICAL PARK

SEC. 2. (a) In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historical structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, in accordance with the provisions of this Act, to acquire only with the consent of the current owner by donation or by purchase with donated or appropriated funds, and all lands and improvements thereon or interests therein comprising the following described areas:

(1) Fanueil Hall, located at Dock Square, Boston

(2) Paul Revere House, 19 North Square, Boston

(3) The area identified as the Old North Church area, 193 Salem Street, Boston

(4) The Old State House, Washington and State Street, Boston

(5) Bunker Hill, Breeds Hill, Boston

(6) Old South Meeting House, Milk and Washington Streets, Boston

(b) At any such time as the Secretary determines that he has acquired sufficient lands, improvements, and interests therein or entered into cooperative agreements with sufficient numbers of private, municipal, or state owners as provided in Section 3 of this Act, to provide an efficient administrative unit, he is authorized to establish such lands, improvements, and interests as the Boston National Historical Park by the publication of that fact in the Federal Register, together with a detailed map setting forth the boundaries thereof.

(c) In addition to the above described areas, the Secretary is authorized to study the following locations, and any others he deems appropriate for inclusion in the Park, either by donation or by purchase with the consent of the owner with donated or appropriated funds, or by entering into cooperative agreements:

(1) Boston Common

(2) Charlestown Navy Yard

(3) Thomas Crease House (old Corner Book Store)

(4) Dorchester Heights

(5) following burying grounds: King's Chapel; Granary; Copp's Hill

(d) No site will be included in the Park which has not been either acquired with the consent of the owner or the subject of a cooperative agreement as outlined in Sec. 3.

COOPERATIVE AGREEMENTS

SEC. 3. In furtherance of the general purposes of this Act as prescribed in section 2 thereof, the Secretary is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, and private organizations to assist in the preservation and interpretation of such of the properties listed in section 2, or portions thereof, which, in his opinion, would best be preserved in private, municipal, or state ownership, in connection with the Boston National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements, except that no limitation or control of any kind over the use of any such properties customarily used for church purposes shall be imposed by any agreement. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of the historic site. Any historical properties not acquired by negotiated purchase, donation, or not the subject of a cooperative agreement may be excluded from the Boston National Historical Park.

ADDITIONAL AREAS

SEC. 4. The Secretary is authorized to accept donations of property of national historical interest and significance located in the city of Boston which he may deem proper for administration as part of the Boston National Historical Park. Upon such acceptance, such property shall be deemed part of such park. The Secretary may purchase with the consent of the owner or enter into a cooperative agreement with the owner of any additional historic sites which he deems appropriate for inclusion in the Boston National Historical Park.

ADVISORY COMMISSION

SEC. 5. The Secretary is authorized to establish a suitable advisory commission. The members of the advisory commisison shall be

appointed by the Secretary, with three members to be recommended by the Governor of Massachusetts, three by the mayor of the city of Boston, Massachusetts, and one each by the organizations with which the Secretary has concluded cooperative agreements pursuant to section 3 of this Act. The advisory commission shall render advice to the Secretary, from time to time, upon matters which he may refer to them for consideration.

HISTORICAL MARKERS

SEC. 6. The Secretary is hereby authorized to carry out a program of historical marking in the city of Boston, Massachusetts, and other municipalities within the Commonwealth of Massachusetts, to cover nationally significant sites of the Colonial and Revolutionary periods of American history, and such sites as are related to any unit of the National Park System within the Commonwealth of Massachusetts, through agreements with the owners of such sites.

VISITOR CENTER

SEC. 7. The Secretary with the consent of the Advisory Commission is authorized to construct on lands acquired by him in accordance with this Act or upon other lands that may be donated to him for such purpose, or make use of existing facilities with proper restoration, a suitable visitor center for the interpretation of the historical features of the Boston National Historical Park.

ADMINISTRATION

SEC. 8. The Boston National Historical Park shall be administered by the Secretary in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

AUTHORIZATION

SEC. 9. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act; except that no such sums shall be used for the purchase of property owned by the Commonwealth of Massachusetts, or the city of Boston, Massachusetts.

CHRIST CHURCH,
Boston, Mass., September 5, 1972.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: You are to be commended for your leadership in proposing the legislation designed to create the Boston National Historic Park.

In response to your inquiry for my reaction, I am pleased to offer the following comments.

1. I believe that Christ Church, the Old North Church, must remain in the control of the Church . . . that is . . . free of government control. It is part of our genius and historic stance that we be free—separation of Church and State and all that.

2. I believe that this church should always be accessible to *all* people—no admission charges. It has been our experience that people are moved to tears when they arrive here and stand at the foot of the steeple from which those lanterns were hung to light the path of freedom in this land. It is further our commitment that *all* people be encouraged to visit here.

3. If to agree to be part of the park and accepting support from the Federal Government means controls as to what is said here, or if our ministry and programs were to be limited or infringed upon, then I must say we cannot be a part of the park.

4. If to be part of the park while retaining control would mean no support from the Federal Government, then I could not agree to this, because by being part of the park with appropriate signs, etc. would in people's minds indicate we were receiving support and would effectively dry up my voluntary sources of income.

5. As the proposed legislation now stands agreements are to be worked out with the Department of the Interior, and as each agreement could conceivably be different from site to site, I can only say again that our agreement, if we are to participate, would have to include our retaining control and Federal assistance, in return for which we would agree not to alter the building, and to maintain accepted standards of maintenance and bookkeeping.

Finally, I believe the idea of the Historic Park is sound and I further believe our particiaption is essential if the park is to be what it can and should be. I hope such agreements will be possible.

Sincerely

ROBERT W. GOLLEDGE, *Vicar.*

AMERICAN JEWISH HISTORICAL SOCIETY,
Waltham, Mass., August 29, 1972.

Senator EDWARD M. KENNEDY,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I should like very much to acknowledge receipt of your letter of August 1 and the accompanying final draft of your bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts.

I believe this final draft incorporated most of the applicable suggestions made during our meeting of July 17. I am particularly pleased to note that the property rights of present owners will be protected, be they private, municipal, or state. I think the bill would be subject to much criticism if this provision were not made. I also feel that inclusion of a visitor center is absolutely essential and was pleased to also note its inclusion.

In the event that I can be of additional aid or assistance to you and members of your staff, please do not fail to contact me.

Sincerely yours,

BERNARD WAX, *Director.*

MASSACHUSETTS HISTORICAL SOCIETY,
Boston, Mass., August 11, 1972.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of August 1. I read your proposed bill to establish a Boston National Historic Park in order to preserve certain historic sites in Boston, and I approve of it highly. I hope very much that your bill will pass. May I say that I have been greatly impressed by the manner in which other National Historic Parks are supervised and maintained.

I do hope that while your efforts to maintain and preserve historic buildings and sites will continue, that you will also consider the difficulties that face the nation's historical societies at the present time. These societies are preserving and acquiring the great collections of historical material which make interpretation of our past possible. As a member of this Society you know some of the collections we house, such as the Adams Family Papers, the Thomas Jefferson Papers, etc. But all of these institutions operate on a shoestring. They do not have the necessary staffs and funds which they desperately need. Don't you think it would be a good idea for the Bicentennial Commission to do something about these institutions that have worked so hard to preserve the things we say we hold dear, but rarely do anything about. For your information I enclose a copy of a news-release establishing an Independent Research Library Association. It may be of interest to you.

With best wishes.

Sincerely yours,

STEPHEN T. RILEY, *Director.*

PALMER & DODGE,
Boston, Mass., August 21, 1972.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you very much for your kind letter of August 1, 1972 with respect to the "Boston National Historic Sites Act of 1972".

As chairman of the Back Bay Architectural Commission I am, of course, interested in the preservation of sites of historic and architectural importance within the city of Boston. I believe that the bill which you are proposing to submit to Congress would help in this endeavor by permitting the federal government to administer certain of the local land marks which form the basis of Boston's prominent position as a tourist attraction and as an historic shrine.

I think that the bill as currently drafted meets the objections which were raised at the meeting of July 17 at the Old State House. It seems to me that so long as the bill provides only for acquisition by the Secretary of Interior by purchase or gift and not by taking by eminent domain, there can be no legitimate criticism of federal interference in local matters. Also, the section providing for a more thorough system of signs for historical sites throughout the Commonwealth is important.

Thank you for your consideration in requesting my views on this matter.

Yours faithfully,

DONALD F. WINTER.

BOSTON PARKS AND RECREATION,
Boston, Mass., August 1, 1972.

Hon. EDWARD KENNEDY,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SEN. KENNEDY:

Thank you for your letter and the copy of your bill "To Authorize the Establishment of the Boston National Historical Park in the Commonwealth of Massachusetts.".

Certainly, this bill has been long needed to preserve our treasures in a manner worthy of our history. You were kind to come to Boston and hear our opinions.

Our historic open space parks need help also, although not necessarily by joining a national historic park. I hope that your next effort will be to help us preserve these open spaces for the people who live in the city, and can't afford to leave for weekends and vacations. We would like to provide even better maintenance and leisure programs for inner city residents.

Thank you for this fine bill, which I shall support here in all possible ways.

Sincerely,

RUTH S. FOSTER, *Ecologist.*

BOSTON LANDMARKS COMMISSION,
Boston, Mass., August 10, 1972.

Hon. EDWARD M. KENNEDY,
Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for sending me a copy of the revised draft of your bill to establish a Boston National Historical Park. As you know from my comments at the July 17 meeting, the Boston Landmarks Commission, presently an advisory commission within the Boston Redevelopment Authority, endorses the concept of the bill and suggests the inclusion of Boston Common and Public Garden among the sites initially covered by the legislation. As you know, the Common and Garden have recently been listed in the National Register of Historic Places.

My principal suggestion about the revised draft of the bill is that the park should not be limited to Colonial and Revolutionary sites. Specifically, I would suggest that the following words be eliminated from Section 2: "and associated with the American Revolution and the founding and growth of the

United States." Although it may be desirable to concentrate at first on Revolutionary sites, especially in light of the approaching Bicentennial, the concept of the park should be broader than the Colonial and Revolutionary periods. "Outstanding national significance" (Section 2) or "national historical interest and significance" (Section 4) are sufficient criteria.

I commend your initiative in developing this legislation and look forward to its implementation.

Sincerely,

ROBERT B. RETTIG,
Project Director.

THE COMMONWEALTH
OF MASSACHUSETTS,
Boston, Mass., August 4, 1972.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of August 1, 1972, pertaining to the Boston National Historic Park.

We are pleased with the prospect of federal operation of national historic treasures and wish to commend you for your initiative.

This federal interest might also be extended to incorporate other federal historic properties on a cooperative basis so that the Boston Naval Shipyard and the U.S.S. Constitution could be part of the total Boston National Historic Park.

Another very important area for consideration might include the "Dorchester Heights" in South Boston, which were fortified so significantly and which led to the evacuation of British forces on March 17, 1776. It is hard to draw the line once you begin to create a national park in Boston because there are so many elements of great national significance. Therefore, the open authorization in the current draft of your Bill is appropriate.

May we ask you to support the U.S. Travel Service proposal that it may become a balanced national tourism promotion office? As attractions expand, it is important to carry out a balanced promotion program. We feel that the U.S. Travel Service program should include the domestic as well as the foreign aspects of tourism.

Please keep us informed of the progress of the Boston Historic Park and call on us for support at any time.

Sincerely,

ERNEST A. LUCCI,
Deputy Commissioner.

CITY OF BOSTON,
OFFICE OF THE MAYOR,
City Hall, Boston, Mass., August 10, 1972.

Hon. EDWARD M. KENNEDY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The City of Boston appreciates your legislative initiative to create a National Historic Park here and welcomes the opportunity to comment on the proposed bill.

Two particular strengths of the legislation are the concept of cooperative agreements and the provision for incorporating other sites into the Historic Park at a future date. The cooperative agreements should be a means 1) to get the Office of Management and Budget to overcome its reluctance to authorize the use of federal funds for the operation and maintenance of this type of property, 2) to provide a uniformly excellent administrative and interpretive framework, and at the same time 3) to allow the title to the property to remain with the group associated with it historically.

With the approaching celebration of the Bicentennial, the bill's focus is understandably on sites with historical significance in the colonial and revolutionary periods. However, we are interpreting Sections 2 and 4 of the draft bill to mean that other sites associated with the growth of the United States and of more recent historical merit, such as the Charlestown Naval Yard and/or the Olmsted Park System, may be added sooner or later to the National Historic Park. The concept, definition, and preservation of both Boston's history and the National Historic Park should be dynamic and inclusive.

Any provisions in the bill for restoration and maintenance should recognize the special stress of an urban environment and should aim at correcting and preventing damage caused by urban pollution, be it air, water or noise.

Whereas the draft bill covers six key colonial and revolutionary sites, it omits several others which should be considered for inclusion. Particular attention should be given to Dorchester Heights and the burial grounds. As a National Historic Landmark, Dorchester Heights is already the subject of a cooperative agreement between the City of Boston and the National Park Service which could be retailored and made an effective part of the park. Historically, one values Boston's burying grounds not only for their early date, for the graves of notable patriots, and for their stones which are a record of the art and culture of the time, but also one prizes them for the patch of green open space they add to the urban environment. As the Department of the Interior begins to think about urban parks, we should underline this double value of the burying grounds. The following is a list of additional sites that you may want to cover in the initial legislation:

1. Boston Common and Central Burying Ground
2. Thomas Crease House (Old Corner Bookstore)
3. Dorchester Heights
4. Shirley-Eustic House
5. King's Chapel and Burying Grounds
6. Granary Burying Grounds
7. Copp's Hill Burying Ground
8. Castle Island (Fort Independence)
9. Highland Park (Roxbury High Fort)

In Section 2, you may want to define more precisely the "area identified as the old North Church area" and "Bunker Hill, Breeds Hill." Any ambiguity may conjure up apprehensions about land clearance and acquisition associated with the report and recommendations of the 1960 Boston National Historic Sites Commission. Also, it should be clarified if the Moses Pierce-Hichborn is included or not under the definition of the Paul Revere House.

Provision is made in Section 5 for local representation and expression in the affairs of the park; however, the Commission is a structure lacking true voice and authority. We would recommend that the legislation require that the Boston National Historic Park Advisory Commission approve all additions to the park, be it land or facilities, and also approve any new construction, such as a visitors' center, and any alterations of use of the facilities incorporated in the park to insure that such undertakings would always be in keeping with the concept and objectives of the park.

The City of Boston will be most interested in the progress of the bill and will be ready to assist in any way that we can.

Sincerely,

KEVIN H. WHITE, *Mayor.*

By Mr. PASTORE (for himself, Mr. GRIFFIN, Mr. RANDOLPH, Mr. KENNEDY, Mr. COOK, Mr. BEALL, Mr. HUMPHREY, Mr. NELSON, Mr. BIBLE, Mr. MOSS, Mr. COTTON, and Mr. PROXMIRE):

S. 4010. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on the Judiciary.

Mr. PASTORE. Mr. President, on behalf of myself and the Senator from Michigan (Mr. GRIFFIN), I send to the desk for appropriate referral a bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. PASTORE. Mr. President, today a professional football team can blackout the television coverage of its home games within its home territory. In professional football this generally means a blackout within a 75-mile radius of the home team's stadium.

Numerous inquiries regarding this provision have been received. Specifically, questions have been raised about the justification of blacking out of home games when these games are in effect sold out.

During the past season, according to one source, 97 percent of the seats in the National Football League stadiums were sold. On the average some 50,000 fans have paid to fill the seats at regular pro league games. Tens of thousands of others who desired to see the games were unable to get in. Yet even while thousands of fans were unable to buy seats, the television coverage of all regular home games is blacked out by the National Football League generally within a 75-mile radius of the home team's stadium. While there may have been some justification for this system when both the National Football and American Football teams were struggling to survive, there is a real question today whether it is any longer justified. It appears that most of the games are sold out and that television revenues from the regular and postseason games are estimated at between $45 and $50 million.

The Senator from Michigan (Mr. GRIFFIN) and I are, therefore, proposing today that the local blackout be ended before game time. This would permit those who purchase tickets to go to the stadium and those unable to buy tickets to see it on their home television.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. PASTORE. I yield first to the Senator from Michigan.

Mr. GRIFFIN. I know that the Senator from Rhode Island will want to yield to the Senator from Wisconsin, because the Senator from Wisconsin has been interested in the subject, too, over a period of months. I commend the Senator from Rhode Island, the distinguished chairman of the Subcommittee on Communications of the Committee on Commerce, for introducing this bill. It is similar to a bill I have introduced. I am glad to cosponsor the measure as it is proposed today and to indicate my strong view that I hope we can get action in this area. I am getting many, many letters, and I am sure many other Senators are, particularly if they happen to

represent a State that has a football team like the Detroit Lions, where 75 percent of all tickets are sold out to season ticketholders before the season even begins and almost without exception now every game is sold out long in advance.

We have the situation that people who are very interested cannot buy a ticket and they cannot watch the game on television.

The time has long passed when this policy, this arbitrary policy, on the part of the National Football League and the American Football League should be reviewed and the statutory exemption which Congress granted a few years ago should be revoked or repealed, at least insofar as it allows this arbitrary power in the hands of the leagues to black out completely these professional football games.

Mr. PASTORE. The argument usually made by the professionals is this: Because there is a sellout in the beginning, it would not happen next year if you eliminated it completely. That is the reason why I am introducing this bill today as a supplement to the bill that was introduced by Senator PROXMIRE some time ago.

I am saying in this bill that where there is a sellout of a particular game 48 hours before that game, they have to open up the screen.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. PROXMIRE. Mr. President, I cannot say how pleased and happy I am that the Senator from Rhode Island, who is the outstanding expert in the Senate on the FCC and on television and radio, has introduced this bill. As he said, I introduced a bill almost exactly like this a year and a half ago. I have been pressing hard for it.

I can tell the Senator from Rhode Island that there will be rejoicing in Wisconsin and Milwaukee and Green Bay, because people are outraged. The overwhelming majority of these stadiums are owned by the people. The stadiums are used by the professional teams, who make a tremendous amount of money out of it.

There are very few periods in American life that men especially—but women, too, I think—look forward to more than the Sunday afternoon football game they can watch on their television set. They prefer to go.

Mr. PASTORE. They cannot buy a ticket.

Mr. PROXMIRE. There is no possible way to get in. You have to have it deeded to you. People spend thousands of dollars for these things.

The Senator's provision that the game would have to be sold out 48 hours in advance, and only if it is sold out will it be shown on television, will protect the owners.

Mr. PASTORE. That is right.

Mr. PROXMIRE. It seems to me that it makes a great deal of sense. I am sure that there will be a great deal of rejoicing in Green Bay and Milwaukee tonight, with the knowledge that the Senator from Rhode Island has introduced this measure.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield first to the Senator from Kentucky.

Mr. COOK. I thank the Senator.

As the Senator from Rhode Island knows, he, together with this Senator, held hearings on my sports bill some time ago; and we went to some extent into the unfairness of the blackout situation, about which the Senator from Wisconsin has spoken.

I suppose the most glaring example we can give is that the citizens of Kansas City voted a $69 million bond issue for their facilities—baseball, football, and basketball—and during the course of the bond issue, the best that the sports facilities could do to contribute to the extinction of those bonds was a little more than $9 million of the $69 million of debts. Yet, the people in Kansas City cannot watch their football team play football.

If they are going to call themselves the Kansas City Chiefs or if they are going to call themselves the New York Giants, who threatened the city of New York that if the city did not spend 20-some-odd million dollars to fix up Yankee Stadium they would move to New Jersey—and they are going to move to New Jersey—and yet they are totally sold out, I can say that legislatively something ought to be done about it.

I would like to be a cosponsor of the bill.

I also remind the Members of the Senate that in the basketball merger bill now on the calendar there are some provisions relative to blackouts and the eliminations of blackouts.

Mr. PASTORE. Those are only super games.

Mr. COOK. That is correct.

Mr. PASTORE. This bill refers to all games.

Mr. COOK. I would hope the Senator from Rhode Island, if that bill should happen to come up for consideration, would use the vehicle he has in his hand to have a good debate on this matter, relative to the expansion of the section that is now in that bill.

I ask the Senator to have my name added as a cosponsor of his bill.

Mr. PASTORE. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. COOK), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Minnesota (Mr. HUMPHREY) be added as cosponsors of the bill.

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

Mr. PASTORE. I yield to the Senator from Minnesota.

Mr. HUMPHREY. The Senator from Wisconsin (Mr. PROXMIRE) said that there will be rejoicing in Milwaukee, Green Bay, and Wausau and other places. There will be rejoicing in the Twin Cities, except when we play the Redskins. (Laughter.) If there is any way to black that out, it should be blacked out. Otherwise, I buy the whole bill.

In all seriousness, I want to compliment the Senator. I think this bill will be well received by the public. It is one of the great needs of entertainment.

Mr. PASTORE. It is a very frustrating situation. You go to the gates where the tickets are sold and there is a line a mile long, and people cannot buy a ticket for love or money. In many instances the tickets are sold even before the season starts. They are picked up by big industrialists for public relations purposes, and the ordinary American cannot buy a ticket even if he has the money.

Then the scalpers come into play, and sometimes some of these tickets are sold for as much as $50, and the poor people who have been standing in line in the rain go home and cannot even see the game. They have to take a train to New York and go 75 miles from their home in order to see the game.

Mr. HUMPHREY. I say to the Senator from Michigan that we look forward to the coming weekend, with the Detroit Lions and the Vikings. Perhaps the Senator will not want this game televised.

Mr. GRIFFIN. We would very much like it televised.

Mr. PASTORE. Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. I thank the Senator.

Mr. President, I am thoroughly in accord with the proposed bill. I commend the distinguished Senator from Rhode Island, the distinguished Senator from Michigan, the distinguished Senator from Wisconsin, and the other Senators for introducing it.

I would not for the world cast any discordant note into this colloquy—at least, I am reluctant to do so—but I do feel constrained, on behalf of a vanishing generation, to call the attention of these Senators to the fact that the football teams are able to black out something more besides their own games.

I am old fashioned enough that I hate to see what I guess is about to become true, that baseball will cease to be America's favorite sport and is going out of the picture. But when the football season starts so early, the preseason games begin during the latter part of July and they run continuously every week thereafter, so that it is all the football on TV that has pushed baseball out of the picture. Some of us old-fashioned guys, once in a while, turn on the television set to see a baseball game, but instead a football game is being shown, and they run clear into February, which is all right during that part of the calendar.

When the bill gets to our committee I believe that we should consider whether we should extend it to the point that it covers all their preseason games as well as the regular season.

I realize that baseball is not making the money it used to and is not drawing the crowds it used to and is up against a bad situation. Perhaps it will become a thing of the past. But I get a little fed up when, instead of being able to see a baseball game, even when we are approaching the World Series with four teams in the American League running almost even, I am compelled to see four or five

different football games on the television screen. So they wipe out baseball completely even if they break with themselves in their own territory.

I just want to add that when the bill comes to the committee I might be tempted to offer one small amendment which would not apply at all to the regular season or even to the afterseason games, but which might have something to do with the preseason games.

Mr. PASTORE. Mr. President, I ask unanimous consent that my bill, inasmuch as it has to do with the antitrust laws, be referred to the Committee on the Judiciary and to the Committee on Commerce.

Mr. HART. Reserving the right to object, what was that?

Mr. PASTORE. I asked unanimous consent that my bill, inasmuch as it has to do with the antitrust laws, be sent to the Committees on Judiciary and Commerce.

Mr. HART. I thank the Senator.

The PRESIDING OFFICER (Mr. HANSEN). Is there objection to the request of the Senator from Rhode Island?

Mr. COTTON. Mr. President, just one moment. I still did not hear what the Senator said.

Mr. PASTORE. I asked unanimous consent, inasmuch as this has to do in part with the antitrust laws, which comes under the jurisdiction of the Judiciary Committee that the bill be referred to the Committees on Judiciary and Commerce.

Mr. BEALL. Mr. President——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island?

Mr. BEALL. I do not object——

The PRESIDING OFFICER. Without objection, the bill will be referred jointly to the Committees on Judiciary and Commerce.

Mr. BEALL. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I rise to ask the distinguished Senator from Rhode Island (Mr. PASTORE) to make me a cosponsor of his bill.

Mr. PASTORE. I have already added the name of the distinguished Senator from Maryland.

Mr. BEALL. I thank the Senator.

Mr. President, when we speak of making people happy, I am in the unique position of representing two different football constituencies here in the Senate. I represent the constituents who follow the Washington Redskins and live in suburban Maryland. I also represent the constituents who are loyal to the champion Baltimore Colts and live in the vicinity of Baltimore. So the Senator from Rhode Island has made two of my constituencies happy by this particular piece of legislation.

I might point out, also, that I represent the constituencies of the two football teams which will probably be meeting each other in the Super Bowl come January. [Laughter.]

Mr. PASTORE. Mr. President, I yield the floor.

Mr. COTTON. Mr. President, before the Senator yields the floor, in spite of my remarks about the harm being done baseball, I would like to be added as a cosponsor of the Senator's bill.

Mr. PASTORE. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. COTTON) be added as a cosponsor of my bill.

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

By Mr. NELSON:

S. 4011. A bill to establish a Federal medical malpractice reinsurance program. Referred to the Committee on Labor and Public Welfare.

FEDERAL MEDICAL MALPRACTICE REINSURANCE ACT

Mr. NELSON. Mr. President, as stated in individual views on the HMO bill, I believe the section (1221)—requiring certification of all health providers who might benefit from the malpractice reinsurance provision—is impractical and unworkable at this time.

The committee adopted a malpractice reinsurance provision, setting up a Government-operated reinsurance pool, covering catastrophic insurers losses in malpractice suits.

The intent of this provision is to be a first step toward controlling the high cost of malpractice premiums; providing a mechanism for making malpractice insurance available to all qualified providers; and curbing the losses insurance companies are experiencing from high claim awards.

However, I do not believe that it is valid to use the malpractice reinsurance provision as a device to certify all health providers in a bill that primarily intends to aid the development of health maintenance organizations.

Of an estimated 334,000 physicians in the United States, approximately 6,500 (or about 2 percent) are practicing in some form of group practice or HMO, according to HEW estimates. Thus, 327,500 physicians in the country who are in solo practice would have to be certified by the HMO Quality of Care Commission before they could benefit from the malpractice reinsurance provision.

Many of the solo practitioners in the country are located in rural areas. Thirteen percent of the Nation's doctors practice in nonmetropolitan counties, including 3.6 percent who practice in counties of less than 25,000 population—according to 1971 American Medical Association figures.

Of the 334,000 physicians—an AMA figure—112,028 or 34 percent are board certified by 20 specialty boards. Practicing physicians are also licensed by States, of which 44 States utilize the FLEX—Federal licensure examination—exam—a 3-day examination devised by State medical boards and the National Board of Medical Examiners.

This bill would impose another certification procedure on top of existing mechanisms.

While I agree with the aim of the bill to insure that quality health care is being provided nationwide, and support peer review and quality review with participation by laymen receiving health care, I believe a federally controlled certification program envisioned by this bill is impractical and unworkable at this time.

A major problem is that there is no general consensus among doctors, health-care providers, consumers, or anyone as to what constitutes acceptable quality of care. The HMO does not indicate what levels or means of measuring quality would be, although it allows locally administered quality review meeting Federal standards set by the Quality of Care Commission.

Understandably, standards would vary from area to area. What might be considered good quality care in a rural area might be inadequate in an urban setting.

The bill would require certification for quality—which everyone agrees is difficult to establish or define—as a prerequisite to entitlement of benefits under the malpractice reinsurance program.

The issue of medical malpractice is one that should be considered thoroughly and separately from the HMO bill.

For this reason, I am introducing the malpractice reinsurance bill separately.

The bill sets up a Federal malpractice reinsurance program patterned after the Federal riot and flood reinsurance programs to protect primary insurance companies against catastrophic malpractice claim losses.

Insurance companies selling malpractice insurance could voluntarily pay into a federally administered reinsurance pool.

The pool initially would pay malpractice liability claims above $25,000 and up to $1 million. These figures could be adjusted up or down, based on actuarial experience.

The Federal Reinsurance Commission could regulate malpractice premium rates among participating insurance companies, so that rates could be stabilized or perhaps reduced, based on actuarial experience.

After analyzing the malpractice problem and various possible approaches to correct it, it is my conclusion that this reinsurance is the most practical first step to cut the spiraling cost of malpractice insurance, make it available to all qualified health care providers at reasonable costs, and still allow for judicial review of liability.

Testimony before the Department of Health, Education, and Welfare Malpractice Commission, the Senate Health Subcommittee and the First National Conference on Medical Malpractice, February 7–8, 1970, in Chicago cite the following problems:

First. Malpractice claims are increasing. The American College of Surgeons, in a recent nationwide survey, found that over 40 percent of 15,000 board certified surgeons who responded to the survey had at least one malpractice claim since 1960. The incidence of claims was higher in the second half of the 1960's than the first half. At such a rate, one out of three surgeons will have a suit against him in the first half of the 1970's.

The National Association of Insurance Commissioners, in a report of its industry advisory committee on medical malpractice insurance, June 12, 1972, stated:

Are claims continuing to rise? Yes. They are rising at an ever increasing rate, particularly since the advent of the wage-price control. Are judgments and settlements continuing to increase? Yes. There has been a definite trend to far higher awards since the advent of the wage-price freeze.

There is no control over the number of cases which may be brought against doctors in each state. There is no control over the amount of court-approved awards which juries or panels may give to plaintiffs, and there is no control over the level at which settlements must therefore be made. This coverage will continue to be available to the vast majority of physicians as long as adequate premiums can be obtained.

Second. Awards by courts are going up. Awards as high as $500,000 are occurring with increasing frequency, although average court settlements are $10,000.

Third. Premiums are skyrocketing and some doctors are having increasing difficulty obtaining malpractice insurance at all. In one of its first actions involving professional liability insurance rates, the Price Commission approved a 13.1 percent premium hike for physicians in northern California who are insured by one insurance company. The firm attributed the need for a rate hike to "a particularly sharp increase in claim frequency," which hit a record high in 1970. The actual increases ranged from 5 percent for general practitioners to 20.8 percent for specialists.

In testimony before the HEW Malpractice Commission, California doctors reported that the cost of $1 million worth of malpractice insurance for a general surgeon rose from $975 per year in 1968 to $3,925 for the same coverage by the end of 1969. For some specialities, witnesses said premiums are now as high as $15,000 to $25,000.

In Michigan, the majority of doctors in the Ingham County Medical Society paid malpractice premiums from $50 to $550 in 1966; by 1971, premiums for the same doctors had risen to between $1,000 and $3,000.

Fourth. Doctors retire early or move out of high-premium areas rather than pay premiums they feel they cannot afford.

Fifth. Insurance companies say they are forced to raise the premiums because of the risk of high losses. They claim their own reinsurance has gone up or that they cannot obtain reinsurance at reasonable rates. Thus, the cost of malpractice insurance is passed onto the doctor, who passes it onto the consumer.

Richard S. L. Roddis, dean, University of Washington School of Law, Seattle, Wash., wrote in a paper, "Medical Malpractice," published by the Center for the Study of Democratic Institutions:

The insurer naturally will expect more in the way of a net return on those lines of coverage where it faces a greater risk that results will vary substantially from those anticipated, such as the malpractice insurance line.

It is a fact that the uncertainties of malpractice underwriting have been very acute in the last 15 years for a number of reasons . . .

Complicating the picture is that there comes a time when the uncertainties in underwriting just cannot be compensated for by ever-higher premium rates. There is no rate for some types of risks. Then the "capacity of the insurance market" is really limited. Indeed, you then see companies begin to withdraw from those lines of business.

Sixth. Doctors are practicing defensive medicine—often unnecessary, costly extra services, which doctors provide or order to protect themselves in the event of a suit.

Both the AMA and the American College of Surgeons, in surveys, found that doctors order more X-rays, laboratory tests, consultations, hospitalizations, and records, and some doctors reported cutting out certain procedures altogether, and ceasing emergency room activities because of the malpractice threat.

The result, then, has been higher doctor's fees, increased health care costs in general, and decreased availability in many areas. This is contrary to all efforts to make health care more available to persons at reasonable expense.

Blue Cross Association testified before the HEW Commission:

It is estimated that hospital liability insurance premiums add 40 to 50 cents to each patient day in the hospital. . . . that burden amounted to $29,650,000, which had to be passed on to Blue Cross in the form of higher costs, and ultimately to the subscriber in higher rates.

This bill, providing federally administered malpractice reinsurance, would make it possible for insurance companies to stay in the malpractice business, and provide insurance at reasonable rates to qualified providers.

The bill provides limited Federal involvement in the malpractice insurance industry. Like Federal riot and flood insurance, it is an effort to utilize existing structures while providing a mechanism for protection against catastrophic losses by companies.

The Federal Insurance Administration estimates that reduced administrative expense incurred by the Federal crime insurance program will permit a 50-percent higher payout on claims.

The evidence from workmen's compensation and the Federal crime insurance program indicates that the costs of coverage under publicly administered programs are less than private insurance coverage.

At the first national conference on medical malpractice, sponsored by the American Osteopathic Association with support from HEW, February 7 through 8, 1970, Chicago, one workshop that explored alternative insurance mechanisms reported:

Representatives of the insurance industry in our workshop pointed out that the real problem in malpractice insurance was the lack of reinsurance companies to share and spread the risks. It was generally believed that it was in the area of financial support in the field of reinsurance that companies handling malpractice insurance needed the most support. If such reinsurance support could be secured through the assistance of the federal government, then more companies would be attracted back into the medical malpractice market, and rates could conceivably be reduced. If insurance companies could make a profit in the professional liability field, competition would increase and premiums could be stabilized.

The ultimate effect of this bill, if enacted, would be to benefit the consumer, patient, and public.

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

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

S. 4011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Medical Malpractice Reinsurance Act of 1972".

ESTABLISHMENT OF PROGRAM

SEC. 2. There is hereby established a program to be known as the Federal Medical Malpractice Reinsurance Program (hereinafter referred to as the "Program") which shall be administered by the Federal Medical Malpractice Reinsurance Board (hereinafter referred to as the "Board").

ESTABLISHMENT OF THE BOARD

SEC. 3. (a) (1) There is established a Federal Medical Malpractice Reinsurance Board (hereinafter called the "Board") consisting of nineteen members appointed by the President by and with the advice and consent of the Senate. Members of the Board shall be selected from among representatives of the general public, the insurance industry, State and local governments including State insurance authorities, and the Federal Government. Of these members of the Board, not more than six shall be regular full-time employees of the Federal Government, and not less than four shall be representatives of the private insurance industry and not less than four shall be representatives of State insurance authorities.

(2) The President shall designate a Chairman and a Vice Chairman of the Board.

(3) Each member shall serve for a term of two years or until his successor has been appointed, except that no person who is appointed while a full-time employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(b) The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Board may appoint any member to act as Chairman pro tempore. The Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Board.

(c) The Board shall review general policies and shall perform such other functions as are specified in this title.

(d) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

REINSURANCE COVERAGE

SEC. 4. The Board is authorized to offer to any insurer or pool, subject to rules and regulations prescribed by the Board, reinsurance against liability for damages resulting from acts of medical malpractice.

BASIC AUTHORITY

SEC. 5. (a) In carrying out the medical malpractice reinsurance program the Board shall arrange for—

(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

(2) other appropriate participation on other than a risk sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

(b) The Board shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Board determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

CLAIMS AND JUDICIAL REVIEW

SEC. 6. (a) All reinsurance claims for losses under this Act shall be submitted by insurers in accordance with such terms and conditions as may be established by the Board.

(b) (1) Upon disallowance of any claim under color of reinsurance made available under this Act, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Board on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 7. In carrying out his responsibilities under this part, the Board may utilize—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States.

(2) officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Board and the head of any such agency may from time to time agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2), or any combination thereof.

ESTABLISHMENT OF AFFORDABLE RATES

SEC. 8. In estimating the affordable rates for the various insurance coverages offered from time to time under this Act, the Board shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverages. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

REPORTS ON OPERATIONS

SEC. 9. The Board shall include in its reports to the Congress on the program authorized by this title full and complete information on his operations and activities under this part, together with such recommendations with respect thereto as it may deem appropriate.

RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 10. (a) Any insurer, or pool, acquiring reinsurance under this Act shall furnish the Board with such summaries and analyses of information in its records as may be necessary to carry out the purposes of this Act, in such form as the Board, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Board shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Any insurer or pool acquiring reinsurance under this title shall file with the Board a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

(c) Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Board under this Act shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance payments by the Board.

(d) The Board and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Board. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

ADVANCE PAYMENTS

SEC. 11. Any payments which are made under the authority of this Act may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Board may determine.

RECOVERY OF PREMIUMS; STATUTE OF LIMITATIONS

SEC. 12. (a) The Board, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Board.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Board for reinsurance, or for the recovery of any premium paid to the Board in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Board a false or fraudulent annual statement or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Board.

PAYMENT OF CLAIMS

SEC. 13. The Board is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any liability which is covered by medical malpractice reinsurance made available under the provisions of this Act.

NATIONAL INSURANCE DEVELOPMENT FUND

SEC. 14. (a) To carry out the programs authorized under this Act, the Board is authorized to establish a National Medical Malpractice Reinsurance Development Fund (hereinafter called the "fund") which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance or direct insurance contracts under this title:

(2) to pay such administrative expenses as may be necessary or appropirate to carry out the purposes of this title; and

(3) to repay the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from him for purposes of such programs under this Act.

(b) The fund shall be credited with—

(1) reinsurance premiums, fees, and other charges which may be paid or collected in connection with resinsurance;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative expenses) incurred in carrying out the program;

(5) receipts from any other source which may, from time to time, be credited to the fund; and

(6) funds borrowed by the Board and deposited in the fund.

(c) If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced, the Board determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

DEFINITIONS

SEC. 15. (a) When used in this Act, unless the context otherwise requires, the term—

(1) "affordable rate" means such premium rate as the Board determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 16. There are hereby authorized to be appropriated to carry out the purposes of this Act, such sums as may be necessary.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 718

At the request of Mr. ROTH, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 718, a bill to create a catalog of Federal assistance programs.

S. 3881

At the request of Mr. CHILES, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 3881, a bill to provide that meetings of Government agencies and of congressional committees shall be open to the public.

S. 4001

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Arkansas (Mr. FULBRIGHT) and the distinguished Senator from New Hampshire (Mr. COTTON) be added as cosponsors of the social security bill introduced yesterday. This will bring the total to 74.

The PRESIDING OFFICER (Mr. JAVITS). Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 98—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF "SEPARATION OF POWERS AND THE NATIONAL LABOR RELATIONS BOARD: SELECTED READINGS"

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN submitted the following concurrent resolution:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by Dr. James R. Wason of the University of Maryland, formerly Specialist in Labor Economics and Relations, Economics Division, Legislative Reference Service, The Library of Congress; and the Congressional Research Service and The Library of Congress, in cooperation with the staff of the Subcommittee on Separation of Powers, be printed as a Senate document.

SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by Section 1 of this concurrent resolution.

SENATE RESOLUTION 369—SUBMISSION OF A RESOLUTION DESIGNATING THE STYLES BRIDGES ROOM IN THE U.S. CAPITOL

(Referred to the Committee on Rules and Administration.)

Mr. COTTON submitted the following resolution:

S. RES. 369

Resolved, That the room located in the United States Capitol and designated as number S-120 is hereby designated, and shall be known, as the "Styles Bridges Room".

SEC. 2. (a) Any law, rule, regulation, document, map, or record of the United States in which reference is made to the room referred to in the first section of this resolution shall be held and considered to be a reference to the Styles Bridges Room.

(b) The Committee on Rules and Administration is hereby authorized and directed to place an appropriate marker or inscription at a suitable location or locations to commemorate and designate such room as provided herein. Expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of such committee.

REHABILITATION ACT OF 1972—AMENDMENTS

AMENDMENTS NOS. 1555 AND 1556

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY. Mr. President, the amendments I am introducing today to S. 3987, the Rehabilitation Act of 1972, are designed to address two serious vocational rehabilitation needs that have been too long ignored.

The first amendment would establish a program whereby public safety officers who have become disabled as the result of injury sustained in the line of duty or those who retire after completing the required years of service, can obtain vocational counseling and retraining to continue to live with dignity in the performance of useful and adequately compensated work. This amendment, previously introduced as S. 3690 and as an amendment to H.R. 8395, the legislation passed by the House to amend the Vocational Rehabilitation Act, has been redrafted to conform with the provisions and language of S. 3987.

The second amendment provides for a demonstration program to determine the feasibility of wage supplement payments to the physically or mentally handicapped and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activities centers. I believe it is profoundly wrong that these persons should be institutionalized when with a modest income they could be enabled to live independently and function normally in their families and communities. The time has now come for Congress to act upon the recommendations of a previous Secretary of Labor and the President's Committees on the Employment of the Handicapped and on Mental Retardation in support of the development of a program of wage supplements for handicapped individuals employed in sheltered work situations.

Mr. President, I ask unanimous consent that the text of these two amendments be printed at this point in the RECORD.

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

AMENDMENT NO. 1555

On page 51, insert between lines 14 and 15 the following:

PART D—PROGRAMS FOR RETRAINING PUBLIC SAFETY OFFICERS

STATEMENT OF PURPOSE

SEC. 130. It is the purpose of this part to provide a method whereby a State may utilize Federal matching funds, together with its own funds, for the purposes of establishing and conducting manpower and related training of public safety officers who have become disabled as the result of injury sustained in the line of duty or those who retire after completing the required years of service.

DEFINITION

SEC. 131. For the purposes of this part, the term "public safety officer" means, pursuant to regulations issued by the Secretary, a person who is employed by a unit of Federal, State, or general local government in any activity pertaining to—

(1) the enforcement of the criminal laws, crime prevention control, or education, including highway patrol;

(2) a correctional program, facility, or institution;

(3) a court having criminal jurisdiction, where the activity is determined by the Secretary to be potentially dangerous because of contact with criminal suspects, prisoners, or parolees, or

(4) firefighting, done voluntarily or otherwise, with or without compensation.

AUTHORIZATION FOR GRANTS

SEC. 132. The Secretary is authorized to make a grant to any State which meets the requirements of section 133 equal to an amount not to exceed 75 per centum of the cost of the activities undertaken by a State pursuant to the provisions of this part.

APPLICATIONS AND CONDITIONS

SEC. 133. (a) Any State which desires a grant under this part shall make application to the Secretary at such time, in such manner, and containing or accompanied by such information as he deems reasonably necessary.

(b) No grant may be made under the provisions of this part unless the Secretary finds that—

(1) after consultation with such State, the effectiveness of Federal manpower and related programs for the vocational counseling and retraining of public safety officers within such State can be facilitated or improved by additional State efforts and activities; and

(2) such application (A) describes how such additional efforts and activities will be undertaken in support of existing Federal programs, (B) demonstrates that such efforts and activities are not inconsistent with programs assisted under other provisions of this Act, (C) demonstrates that such efforts and activities will contribute to carrying out the purposes of this part, and (D) provides assurances that the State will pay the non-Federal share of the cost of such activities.

RULES AND REGULATIONS

SEC. 134. The Secretary may prescribe such rules and regulations under this part as he deems necessary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 135. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

AMENDMENT NO. 1556

On page 96, between lines 8 and 9, insert the following new section:

WAGE SUPPLEMENTS FOR HANDICAPPED INDIVIDUALS

SEC. 406. (a) In order to demonstrate the feasibility of the payment of wage supplements to handicapped individuals and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activity centers, there are authorized to be appropriated $2,200,000, for the fiscal year ending June 30, 1973, $4,800,600, for the fiscal year ending June 30, 1974, and $9,600,000, for the fiscal year ending June 30, 1975.

(b) (1) The Secretary is authorized to conduct demonstration projects either directly or by way of grant, contract, or other arrangement with public or private nonprofit agencies or organizations under which wage supplements are paid to handicapped individuals or severely handicapped individuals who are employed in rehabilitation facilities which are sheltered workshops or work activity centers in accordance with the provisions of this section.

(2) The Secretary shall carry out the program authorized by this section so as to determine the feasibility of the payment of wage supplements for such individuals on a nationwide basis and so as to assure that such payments are made in each region throughout the United States.

(c) No wage supplement payment may be made under this section unless an application is made by the appropriate public or private nonprofit agency or organization. Each such application shall contain provisions to assure that—

(1) the rehabilitation facility in which the handicapped or severely handicapped individual is employed is a sheltered workshop or work activity center or other similar facility which is eligible for obtaining certification for handicapped individuals under section 14(d) of the Fair Labor Standards Act of 1938;

(2) that the wage supplement paid to any handicapped individual or severely handi-

capped individual together with the earned wages of such individual will not exceed the minimum wage set forth in section 6 of the Fair Labor Standards Act of 1938, without regard to any exception or exclusion contained in that Act;

(3) the wage supplement payable to any handicapped individual will not exceed 55 per centum of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938, and that the wage supplement payable to a severely handicapped individual will not exceed 75 per centum of such minimum wage;

(4) wage supplement payments will be determined over a six-month period of sustained work effort in a rehabilitation facility meeting the requirements of paragraph (1) under which the handicapped individual or severely handicapped individual has engaged in a work program of at least thirty hours during each week, except that the payment of any wage supplement may be made on an estimated basis, on a weekly or monthly basis pursuant to an agreement between the applicant and the Secretary;

(5) each wage supplement payment to a handicapped individual or severely handicapped individual will be made separately from payment of the earned wages to that individual; and

(6) each applicant shall maintain such fiscal control and fund accounting procedures as the Secretary determines necessary to insure the proper disbursement of wage supplements payable under this section, and shall make such reasonable reports as the Secretary may require to carry out his functions under this section and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(d) No handicapped individual or severely handicapped individual shall be eligible for a wage supplement payment under this section unless such individual—

(1) is employed in a rehabilitation facility which is a sheltered workshop or a work activity center which meets the requirements of paragraph (1) of the preceding subsection;

(2) has attained sixteen years of age;

(3) has an earning capacity which is sufficiently impaired that such an individual is unable to obtain and hold employment compensated at a rate at the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 without regard to any exclusion in that Act; and is not otherwise engaged in a training or evaluation program under this Act, pursuant to regulations promulgated by the Secretary, which involves either activities or such a significant portion of the time of the individual as to be inconsistent with the provisions of this section.

(e) In order to assist public agencies and private nonprofit organizations which are employing handicapped individuals or severely handicapped individuals and which meet the requirements of paragraph (1) of subsection (b) of this section, to participate in the program authorized by this section, the Secretary is authorized to make a grant to each such participating agency or organization in an amount not to exceed 10 per centum of all wage supplement payments in that fiscal year made to individuals of that agency or organization. For the fiscal years ending June 30, 1974, and June 30, 1975, the Secretary is authorized to enter into an agreement with any such agency or organization to make an increased payment under this section based upon the success which such agency or organization has in reducing reliance by handicapped individuals and severely handicapped individuals upon wage supplements by an increased reliance upon earned wages by such individuals.

(f) In carrying out the provisions of this section, the Secretary is authorized, jointly by regulation with the Secretary of Labor, to provide further requirements for the certification of a rehabilitation facility pursuant to paragraph (1) of subsection (b) of this section. Any such regulations may contain provisions requiring—

(1) that each such facility shall pay to individuals eligible for assistance under this section wages at a rate not less than 50 per centum of the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938, and to the extent feasible, wages at a rate equal to wages paid to nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work performed, except as prescribed under paragraphs (2) and (3) of section 14(d) of the Fair Labor Standards Act of 1938;

(2) that each such facility will not compete unfairly in obtaining work or in the sale of products or the furnishing of services; and

(3) such other reasonable requirements for the maximum efficient operation of any such facility as the Secretary and the Secretary of Labor may require.

(g) Notwithstanding any other provision of law, the payment of a wage supplement to a handicapped individual or a severely handicapped individual under this section shall not affect the eligibility of any such individual to receive payments under the Social Security Act or any other similar retirement or public assistance payments.

(h) Not later than April 1, 1975, the Secretary is authorized to prepare and submit to the Congress a report on program authorized by this section together with such recommendations for additional legislation as he determines desirable.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, September 27, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Frank H. Freedman, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Levin H. Campbell.

Frederick Pierce Lively, of Kentucky, to be a U.S. circuit judge, Sixth Circuit, vice Henry L. Brooks, deceased.

Joseph L. Tauro, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Francis J. W. Ford, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

A CALL FOR WELFARE REFORM

Mr. PELL. Mr. President, as I have moved about my home State of Rhode Island in recent months I have found that one of the key public policy issues that most troubles all of us is the welfare issue.

I have noticed the aggravation of many hard-working Rhode Islanders that some of our fellow citizens are taking advantage of the welfare laws of our State and of our Nation.

This is a very understandable concern. With the burden of inflation and high taxes resting heavy on their shoulders, it is very upsetting to think that some of our fellow citizens are not contributing their share to the productivity of the State's economy and that they are living like parasites off the hard-earned dollars others have contributed to the financing of the welfare system.

As a U.S. Senator from Rhode Island, this problem troubles me for many reasons.

First, I am concerned about the reactionary forces that are being inspired. While I realize the validity of many of the complaints about the welfare system, I fear that the welfare recipient is in some cases being made the scapegoat for many of the failures of society over which he has no control.

Second, I am worried about the welfare crisis because of its fiscal implications. Costs of welfare have spiraled at an astronomical rate, and approximately half of those spiraling costs are being borne by the Federal budget and the other half by the State budget.

For example, during the 4 years of this administration the number of dependent children and single parents on welfare in Rhode Island has almost doubled in number and tripled in costs. This increase has put a terrible strain on a State budget already hit hard by the impact of the recent spiraling inflation and it further exacerbated the Federal deficit problem.

Third, I am deeply troubled by the impact that the actions of a few welfare chiselers has upon the thousands of hard-working people in our State receiving near poverty wages. These workers may come to the conclusion it is not worth their effort to work if the difference between working and being on welfare is only a few dollars, that they may even receive less.

I believe we can move to avert some of those dangers I have cited.

As I view the welfare crisis I see the necessity for a two-step approach. I believe both a shortrun and a longrun strategy is required.

We must first look at the shortrun problem of reforming the structure and administration of our present welfare system. This is a priority and a must; and I am deeply concerned by the delay in the passage of the President's original welfare reform proposals which had some ideas of real merit.

Unfortunately, the administration's shifting of support for its bill, which I believe was tied to their concern for shifts in public opinion, has made congressional supporters of the bill suspect of the administration's real concern for welfare reform. It is hard to go out on a limb to help the administration if it seems that the gratitude for your help might be shown by sawing that limb off.

There are four types of shortrun legislative and structural reforms that I would like to see.

First of all, an all-out effort must be made now to purge the welfare rolls of chiselers and employable persons.

Second, we must have guaranteed job programs for anyone capable of working.

Third, we should have uniform national standards of welfare assistance.

Fourth, we should have a gradual Federal takeover of the entire cost of the welfare system.

These four basic recommendations can be accomplished through a number of specific steps.

To move those off the welfare rolls who should be removed, I believe we should have required periodic reregistration of welfare recipients unless they are blind, permanently disabled, mothers of pre-school-age children, children, or over the age of 65.

I think Federal funds at a matching rate of 50 percent should be provided to State governments for the prosecution and investigation of welfare fraud.

All too often States find themselves in a "Catch 22" situation with regard to welfare fraud investigators. Since welfare costs take so much out of their budget, they lack the funds needed to curb welfare abuse.

On the Federal level there should be established in the Department of Health, Education, and Welfare, an Office of Assistant General Counsel for Welfare Fraud. This office should be provided the funds and the legal personnel to undertake a national task force investigation and prosecution of illegal welfare abuse in the same manner and with the same enthusiasm as the Department of Justice's recent task force attack on organized crime.

To take people off the welfare rolls we must provide for a better system of job placement. We need a tighter definition of suitable employment for welfare recipients, monthly reviews of the good-faith, job-searching efforts of employable welfare recipients, and a closer cooperation among State welfare departments, State employment departments, and private employers.

I have visited many plants around the State in the past months, and I have talked to many workers who find it very hard to understand why people can be on welfare and unemployment compensation when their plants are looking for unskilled and skilled employees. With nearly 28,000 people unemployed in Rhode Island and with a possible 15,000 on welfare who may conceivably take jobs, these workers I have met are very mad about the lack of applicants for jobs at their plants. The managers of these plants are even more upset because the increase in unemployment has brought about a rise in their unemployment compensation tax.

Now, I have looked into this problem and I have been informed that there are at least 4,000 reported job openings a month available now in the State. I understand that most of these jobs are being filled, but they are not being filled at the rate they should, and that very few persons from the welfare rolls appear to be finding their way to do those jobs.

There is scarce data available on this problem of job placement of unemployed people in the openings reported to me by workers in plants. However, I do believe there is some truth in the fact that not all is being done to place welfare recipients and other unemployed persons in available jobs.

I believe descriptive lists of those people on welfare and unemployment compensation who are capable of working and do not have children of pre-school age should be made available on a confidential basis to every employer in the State. These lists should include some basic data on possible work skills and should be updated every month. They should be provided to employers on the condition that they utilize these lists on a priority basis in seeking employees and that they report any rejections and the reasons for those rejections to the welfare department and employment department.

Anyone on welfare then rejecting a job for reasons other than lack of transportation to the job or certified health reasons should then have their eligibility automatically examined for the lack of a good faith effort to obtain a job.

Steps should be taken also to tighten up the welfare eligibility rolls.

Anyone who transfers all his assets as a gift to another in order to meet the income eligibility requirements for welfare should be discouraged from doing this by the enactment of a regulation requiring a year's waiting period for welfare benefits for anyone who takes such steps.

Stricter alimony laws should be implemented on the State levels. I suspect that in many cases welfare has become the poor man's alimony.

Obviously, providing better placement services and tightening welfare eligibility is not going to eliminate everyone from the welfare rolls.

The large majority of people on welfare are legitimately eligible for welfare and would like to work despite physical handicaps and the burdens of child care.

We must not forget also that the large majority of those on welfare are people whom society wants to help and most certainly does not expect to work. They are children, mothers with children under 6, aged, disabled, and blind persons.

We must be prepared to have some compassionate system of welfare to help these people and provide succor and help to those who are really in need, disabled, or incapacitated by acute illnesses or injuries.

However, for those persons on welfare who can work and yet cannot be placed in private sector jobs, I believe we should provide them with some sort of public employment.

We need more than the meager public service jobs program we have now. Although I am proud of the 1,100 public service jobs now provided in Rhode Island over the initial opposition of the administration of any public service jobs at all, I believe we have sufficient manpower shortages in our public services to put every welfare recipient to work who wants to work.

Some recipients could be put to work in the public works department of our cities. Some could be put to work running day care centers which I believe must be provided for mothers who want to work. Some others could be put to work to relieve the tremendous backlog of paperwork in our public bureaucracies.

To complement the guaranteed jobs program, I think a number of positive and negative incentives should be utilized to encourage people to seek work rather than welfare.

Imagine the impact the present welfare system can have on two Rhode Island families. We might have two Rhode Island families living side by side: One on welfare receiving $80 a week tax free together with some special needs payment for an appliance, such as a refrigerator, and next to that family, one hard-working man earning $100 a week for his family, but seeing nearly a third of that $100 being deducted for State and Federal income taxes and social security taxes. Now I ask, what incentive does that workingman have to continue working? If he had the economic interest of his family in mind, he would try to get them on welfare. This situation must be changed.

While I am not in favor of our Government subsidizing wages in the private sector, I do not believe we should completely eliminate welfare payments to every welfare recipient who obtains a job, as that automatically discourages him from working. If the job that a welfare recipient takes does not pay as much as the welfare recipient would receive if he was on welfare, then I believe the welfare recipient should be allowed to receive at least the difference between the two levels. This was the major reform proposed by the administration in 1969 and I still support that principle.

This provision I believe is essential to keep men from deserting their families in the hope that their families would receive higher welfare payments on their own than they would have received in earned wages.

A second incentive to work which I think is necessary is the provision of day care services. Unless day care services are provided I do not think any mother with young children should be made to work. Here I immensely regret the President's veto of the day care bill.

The third major reform that I think is necessary is uniform national standards of welfare. It seems to me unfair for some States to use low welfare payments and limited eligibility benefits as a means of encouraging their poverty populations to emigrate to other States with more humane standards.

The citizens of Rhode Island have been most charitable in setting their levels and standards of welfare. We have one of the most progressive and generous programs in the Nation; and I do not think other States with less generous standards should be able to take advantage of us by treating their citizens with less justice and equity. The treatment of the poor should be equally handled across the Nation.

I would note at this point what I consider a major deficiency in the administration's plan. H.R. 1 as it now reflects the administration's plan only contains national minimum standards on welfare payments which somewhat coincidentally means complete Federal payment of the low standards of welfare in Southern States, but less than three-fourths of the payments in Northern States. There is no provision requiring the Federal Government to provide matching payments to

those States which have to by tradition pay above a national floor of $2,400 a year for a family of four.

Since Rhode Island now pays nearly an average of $3,100 a year, I think the Federal Government should be required to make the same total percentage effort in aiding each State with its welfare payments. If it's part of the administration's southern strategy to pay more than three-fourths of the welfare costs in Alabama, than it should provide the same for Rhode Island. We must remember too, that it is far more expensive to live in the North than in the South because of the higher cost of living and because of the necessity for winter clothing and heating.

This brings me to the final reform I believe is necessary. Since the number of people on welfare is pretty much a direct function of the success of national economic and social policies, I believe the Federal Government should pay for a larger portion of the costs of the welfare system.

I would suggest that this be done on a gradual basis as suggested in Senator RIBICOFF's excellent amendment to H.R. 1 which contains many of the other reforms I believe are also desirable.

Those reforms include provisions giving procedural due process rights to recipients unjustly denied their benefits, labor protection for State employees who are moved into a federalized welfare system, and a "hold harmless" clause that would insure that initially no State would have to pay more in welfare costs than it paid in 1971.

I have classified the major reforms I have just outlined as a shortrun strategy because I believe that those reforms only serve to make the welfare system more equitable and efficient. Those reforms will not result in the elimination of the welfare rolls.

Some very basic underlying problems have to be considered; and a more widely focused longrun approach to the social questions underlying the welfare mess must be developed before the problem is really solved.

One of the chief reasons for the increase in the numbers of persons going on welfare has been the breakdown of the family unit.

A 1969 study showed that 75 percent of the persons receiving aid as dependent families were families where the father was absent from the home principally due to divorce, separation, or desertion.

I do not think anyone has the complete answer to how the trend toward a larger number of broken families can be changed. I do think that the trend is partly due to the failure of public efforts to relieve the poor and near poor of those well-known problems of the lack of decent educational opportunity, the lack of a decent, well-paying job, and the general lack of a decent living environment.

We find few persons who had the opportunity of a good education, of living in a decent house, and of having adequate food available to them falling into the welfare cycle.

We must not forget that the pressures of inflation and modern urban living fall hardest on the shoulders of those least able to bear the burden—the poor and the near poor.

Inflation for the middle class may mean no steak, but for the poor inflation may mean no meat at all.

With these things as they are, it is not too hard to see why some people do not feel like working for a system that works so poorly for them.

I am somewhat struck by the change in attitudes that occur over time. When John Kennedy was President, everyone was rushing to the press with new ideas on means of helping the poor.

It seems to me that there may be some hope of solving the underlying cause of welfare if we pick up again that spirit of asking what we can do for our country that was popular in the early 1960's.

Now we find the war on poverty aborted by an undeclared war in Vietnam. It is time to abort the undeclared war and to begin again to use some of our Nation's resources in an all-out effort to eliminate the basic social and economic causes of poverty.

I think that it is in such efforts that lies a part of the longrun solution of the welfare problem.

THE PRESIDENT'S SIGNING OF ECONOMIC OPPORTUNITY ACT AMENDMENTS

Mr. JAVITS. Mr. President, I am gratified by the action of the President in signing the Senate-House conference report on the Economic Opportunity Amendments of 1972, which Senator GAYLORD NELSON and I introduced last December in the Senate after the unfortunate veto of the previous measure, the Economic Opportunity Amendments of 1971.

This 2-year extension should be a sign to the poor and to those who labor so hard in the poverty program that the administration joins with the Congress in the effort to break the cycle of poverty essentially through the continuation of the Office of Economic Opportunity on the national level and of community action agencies on the local level.

The bill authorizes a total of $4.7 billion over the 2-year period, fiscal years 1973 and 1974, for continued efforts in manpower training, preschool education, VISTA, alcohol and drug rehabilitation, community action, legal services, health and other vital antipoverty activities.

Importantly, it includes a provision which I authored with Senator KENNEDY to establish a new title for community economic development, expanding on the base of the special impact program under the Economic Opportunity Act which has demonstrated such effectiveness in dealing with the problems of the poor in Bedford-Stuyvesant, N.Y. and throughout the country; I am pleased also with the inclusion of provisions, to which I had the privilege of contributing, to increase funds available for antipoverty efforts in the Commonwealth of Puerto Rico; and to insure more equitable treatment of the aged poor.

It is regrettable that the bill does not include the proposal for the establishment of a national legal services corporation, which has the general support of the administration and the Congress. Despite our efforts, an accommodation between the parties could not be reached upon key elements of the proposal, such as the composition of the board of directors.

I intend to pursue that initiative legislatively at the earliest appropriate moment and, in the meantime, shall seek additional funds for the existing legal services program, which will continue under the extension, and which has been so effective in contributing to the dignity of the poor, as well as the maintenance of ther basic rights.

Of course, we must also move forward on comprehensive child development legislation which was in the vetoed measure and which is awaiting action by the House after being passed by the Senate as a separate measure.

It is my hope that the administration will couple today's action with a determination to support efforts which I and others shall make to provide more adequate resources for the implementation of this new authorization and mandate so that the Nation's 24 million poor—more than a tenth of our population—will be given real hope that the Federal Government's purpose is to erase the chronic condition of poverty which clouds our otherwise beneficent society.

THE ARMENIAN GENOCIDE

Mr. PROXMIRE. Mr. President, in 1915 one and a half million Armenians were slaughtered by the Ottoman Turkish Government, during the first genocide of the 20th century. These mass murders were termed by the Allies as, "Crimes of Turkey against humanity." Nothing was done, however, and the Armenians not only lost more than half of their people, but nine-tenths of their 3,000-year-old homeland. This encouraged the second genocide of the 20th century. For on August 22, 1939, at Obersalzburg, Adolf Hitler declared to his military chiefs:

> I have given orders to my Death Units to exterminate without pity or mercy men, women, and children belonging to the Polish speaking race. . . . After all, who remembers today the extermination of the Armenians.

The Nuremberg trial of Nazi war criminals would not have been legally justified, had it not been for the Allied warning issued in 1915 and delivered to the Turkish Government by the American Ambassador in Constantinople, Henry Morgenthau. It was this fact, brought up by Prof. Andre Gros of the French delegation during the judgment of the International Military Tribunal at Nuremberg that made possible the judgment of the Nazi war criminals.

If we are to prevent the monstrous crime of genocide, we must understand how it happened in the past. A speech delivered by Zaven M. Messerlian at the 53d commemoration of the Armenian genocide in Beirut, Lebanon, on April 28, 1968, serves as an excellent account of how the Armenian genocide occurred in the past. I urge the Senate to consider this tragedy and join the 75 other nations which have already ratified the Genocide Convention.

Mr. President, I ask unanimous con-

sent that the text of Mr. Messerlian's speech be printed in the RECORD.

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

THE ARMENIAN GENOCIDE

(By Zaven Messerlian)

NUREMBERG, 1946

At the judgment of the International Military Tribunal at Nuremberg, of the Major Nazi War Criminals, when thew were trying to find legal precedent to judge genocide, the French delegation had suggested that persecution be defined as an independent crime. The French delegate Prof. André Gros mentioned that there was a legal precedent of this, that during the killing of the Armenians during World War I the French government had proposed in view of these "crimes of Turkey against humanity", the allied governments should announce publicly that all the members of the Ottoman government and those of their agents who were implicated in the massacres would be held personally responsible for their acts. * * *

What crimes had the Ottoman government committed against humanity that even their ally of the time, the German Imperial Government, by a note of its Foreign Office, had made a formal remonstrance on August 9, 1915 and declined any responsibility.

It was the genocide of the Armenian people, premeditated, carefully organized and ruthlessly and cold-bloodedly put into execution by most fiendish methods.

Why had this mass-murder of a nation taken place? What were the real motives and what were the pretexts?

To explain this we must briefly go into the heart of the matter.

After the fall of the last Armenian Kingdom in Armenia Major, the Seljuk Turks occupied Armenia and were followed by the Ottomans. In 1514 the Ottoman Sultan Selim conquered Armenia, the 2000 years old homeland of the Armenians where he tried to scatter the Armenians and dwindle their number and introduce non-Armenian elements in Armenia.

The Ottoman treated the Armenians as second-rate subjects. They were heavily taxed, usually had to give one male child, aged 2 or 3 years to the Janissary corp, never to see them again. Justice was denied to the Armenians, their testimony was worthless. There was no security of life and property in the Armenian districts, Armenian girls were kidnapped or raped. Armenian owned farms or agricultural products were looted or burnt.

In 1809 Thomas Thornton in his book The Present State of Turkey published in London wrote: "frequently, a Christian, who by wearing slippers of a forbidden color is presumed to have usurped the privilege of the Turkish people is punished by death, and trampled upon for three days in the public street."

Above all the Ottomans had ocupied the homeland of the Armenians and denied them basic human rights in their own lands.

With the advent of nationalism there was an Armenian awakening. Armenians without being disloyal against the integrity of an Empire which had usurped them of their lands, demanded reforms and security of life, and thought in terms of self-defence. The Armenian mountaineers of Zeitun rebelled against the tyranical rule of the Sultan, in 1862.

The Grand Vizir of Abdul Hamid II, Kyamil Pasha, after the Armenians had secured, by article 61 of the Congress of Berlin, at least on paper, guarantees for security of life, declared: "We let in Europe snakes grow up amongst us but we must not do the same in Asia. They can cause us harm and be a tool of foreign intervention. We must destroy these elements. The raison d'etat of the Ottoman Empire demands that we secure our future by annihilating the Armenian people. To do this we have governors, judges, tax-collectors, policemen and soldiers. It will be an easy victory, we can declare a Jihad against a people who has no arms, no army, nor important office."

When the promises given at Berlin were not respected, Armenian political parties were formed with the aim of securing reforms. Abdul Hamid II put the plan of Kyamil Pasha into execution. Using this and that pretext, he had 300,000 Armenians slaughtered, ten percent of them in Istanbul. Europe termed him the Red Sultan and the Great Assassin.

After the Ottoman constitution of 1903 Sultan Abdul Hamid II was deposed. Turkey suffered setbacks in the Balkans and Lybia. The Armenians in the provinces were suffering more than ever.

The Armenian demands of reform became shriller. In January 1914 an agreement was signed, between Turkey and the great powers, whereby in the six Armenian vilayets of Anatolia, specific reforms would be carried out, under the control of foreign inspectors.

However, when in November 1914 the Ottoman Empire entered into the First World War, the agreement was annulled Armenians, who until then served loyally the Ottoman Empire up to the highest positions (in 1912 Turkey's foreign minister was Kapriel Noradounkian, the PTT Minister was Vosgan Mardigian, the Governor of Mt. Lebanon was Ohaness Pasha Kouyoumdjian, etc.), were regarded with suspicion.

Turkey's leaders who were from the Ittihad ve Terrake (Union and Progress) party believed that, if the war was to end with allied victory. Armenians would get their independence, along with the Arabs, and the Empire would be completely dismembered. Upon a premeditated plan, set in Salonica in 1912, put in its final form in February 1915, the ruling party of Turkey decided and carried out the annihilation of the Armenians of the Empire, especially of those living in the Armenian homeland.

The pretext used by the Turks was the activity of the Armenians of Russia who as Russian subjects were antagonistic to Turkey. The Turks also feared that the Armenians may revolt in Turkey, however, as history has revealed, there was no such general plan on the part of the Armenians.

The loyalty of the Armenians is shown by a significant detail. Turkey's Minister of War, Enver Pasha, was about to be shot at the Russian Front in 1915 by a Russian bullet, when an Armenian soldier saved him at the risk of his own life. Needless to say in 1908 all the leaders of the Ittihad party, led by Talaat, were given shelter in Armenian homes when the Sultan's forces were looking for them. Furthermore, when in 1914 Turkey entered into World War I, the Armenian men were drafted in the Ottoman army and served loyally.

The extermination of the Armenian people openly discussed by Kyamil Pasha, partially executed by Abdul Hamid II was carried out on a large scale by the Young Turkish Ittihad ve Terrake party.

A Turkish intellectual and politician Mevlan Zade Rifaat, reports, what Dr. Nazem, Secretary General of the Ittihad party, told the Central Committee in the meeting:

"Now we are at war, there is no better opportunity than this the interventions of great countries and the protests of the newspapers cannot be heard, even if they are heard, the matter will become an accomplished fact and will be over. This time's operation must be one of annihilation. It is necessary to exterminate all Armenians not even letting one alive."

On April 15, 1915 the Ittihad trinity—Minister of Interior Talaat. Minister of War Enver and Secretary General Dr. Nazem, sent the following cable to all the governors and local administrators of Asia Minor:

"Considering the nature and issue of their war, politics had stated and proved historically, that the Russian and English peoples can't agree upon sharing our own land. In case of victory they can agree with a third rightful heir. This third rightful heir can only be the Armenian people. Then God forbid! The Armenian Question shall come forth, which for more than half a century has already created international interest, and is thrusted in our breast. Therefore, the government—which represents the Turkish people and the Ittihad v Terrake party—in order to prevent the rise of the Armenian Question, has decided once and for all to put an end to this Question, by annihilating this element in the population. This may be done by driving them to the deserts of Arabia, according to the orders secretly given to you.

"The government and the party Central Committee appeals to you, to assist us in this task with all your forces. Every officer or government official who rejects this patriotic work and tries to defend any Armenian will be recognized as an enemy of the state and religion and will be judged accordingly.

The pretexts which may serve as reasons to carry out this plan are:

"(a) Armenian voluntary forces who serve the enemy armies.

"(b) Organizations within this country, which have planned to harm our army.

"(c) The great number of weapons and ammunition captured all over the land."

At first the Armenian men (ages 18 to 45) had been drafted in the Ottoman army, leaving women, children and old men back at home.

Second, the remaining Armenian populace was disarmed of self-defensive weapons. Third by heavy taxation the Armenian communities were economically ruined. Fourth under the pretext of war, the Armenian villages and towns were isolated from one another and all communication was broken between the provinces and Constantinople. This was done so that Armenians could not know what was being prepared for them, second, they would ignore each others' fate and third, that they could not combine their forces for resistance.

Once these preliminary steps were taken, the Armenian population of Zeitun, known for its bravery and courage, was deported on April 8, 1915 and soon afterwards on the night of April 24, 1915, all the eminent and influential Armenian leaders of Constantinople, including, Journalists, professors, clergymen, poets, composers, physicians, members of the Ottoman parliament—in short the intelligentzia (at first 270 then 600 more) of the Armenian community of Istanbul was arrested without any sound reason and sent to the interior of Turkey where they were massacred by most atrocious means. The same was done in the towns of the provinces. One of the arrested intellectuals was a lawyer and member of the Ottoman parliament, professor at the University, novelist Krikor Zohrab. Zohrab, whom Riad es-Solh gratefully remembered as his teacher, was dragged out of his carriage and had his head crushed by huge rocks on his way to the interior of Anatolia to stand for trial.

According to the famous German humanitarian Dr. Lepsius "only 8 of them were successful to save themselves from death." One of those whose life was saved was the great composed Father Gomidas, who became insane, when he saw all the sufferings of his close friends, and became a living dead until his last breath in 1935.

The aim of killing the Armenian intellectuals was to deprive the populace of its leadership and the elite.

Next came the 300,000 Armenian soldiers serving in the Ottoman army. Upon orders

they were forced to give up all their arms and were turned into labor battalions. Within weeks they were taken into isolated spots, forced to dig their own graves, and then were roped together, to be shot in cold-blood.

Historian Herbert Gibbons writes—The labour battalions were divided sometimes to groups of 300 to 500 men and were sent to isolated spots to work. Then Turkish armed forces were sent, who shot the Armenians and sent reports back to Istanbul that "the rebellion has been crushed."

Once all the able-bodied men who were serving the army were exterminated, the turn came to the defenceless population of the Armenian provinces. Mostly women, children or old men. As all communication and correspondence was stopped, Armenians living in one region were ignorant of the events that took place in another.

On June 11, 1915 the deportation of all Armenians was decreed. Armenian cities and villages were emptied of their native population. The 3000 years old homeland of Armenia, was robbed of its native people.

Secret orders were issued by the Minister of Interior Talaat—these cables were preserved and published by an honest Turk, Naim Bey, Chairman of the Deportation Committee of Aleppo, to ease his consciousness. One of them said:

"It was at first communicated to you that the Government by the order of the Jamiet had decided to destroy completely all the Armenians living in Turkey . . . an end must be put to their existence however criminal the measures taken may be, and no regard must be paid to either age or sex nor to conscientious scruples."

Thus the real aim of the deportations was extermination. The deportations began with a few hours or days notice. Usually the men between the age of 15 and 70 were asked to report in front of the government building. There, they were put in prison and after a few days carried to isolated spots and killed. In the city of Kaiyseri, first the little boys up to the age of ten were taken outside the village and killed. Usually then the rest were ordered to leave all their property behind: houses, fields, crops, cattle, furniture, tools, etc. Everything was confiscated by the Turkish authorities. Then the long march towards the desert and death began. Village after village, whether the population was near war zones or far, were forced to leave their land. On the way, things that they had managed to carry with them, such as money, jewelry, even clothes were taken away from them, by the gendarmes. Then, at an isolated spot the gendarmerie would surround the people and hired butchers, released criminals and tchetés would massacre the defenseless women and old men who were spared, with axes, knives, saws or rifles. Another method was to make them walk thousands of miles to the desert, deny them food or water for days, exhaust and starve them and let disease take care of the work of extermination. If disease did not bring death, Turkish peasants or so called irregulars did.

According to the American Ambassador to Turkey "before the caravans started, it became the regular practice to separate the young men from their families, tie them together in groups of four, lead them to the outskirts and shoot them."

The American Ambassador to Turkey Morgenthau further states that "hundreds of children were bayoneted by the Turks and thrown into the Euphrates and men and women were stripped naked tied together in hundreds, shot and then hurled into the river."

Beautiful women and young girls were forcibly taken into Turkish harems, or raped in front of their mothers or husbands, then killed. Many women and girls chose death by mass suicide by hurling themselves into the Euphrates and Tigris, rather than accept of a life of shame.

Here is what Dr. Fridtjof Nansen, the great Norwegian humanitarian, wrote:

"As soon the columns had fairly started, the callous indifference of the guards turned into vicious brutality. The few men and elder lads were assembled, taken aside and killed. The women and children and old people were driven on, suffering agonies of hunger and thirsts; the food if there were any was scanty and; those who could not keep up were flogged on till they were collapsed or were killed. Gradually the columns became smaller and smaller, as hunger, thirst, disease and murder did their work. Young women and girls were raped or sold by auction."

In some places the Armenians were not even deported. They were simply massacred or burnt alive on the spot. The authorities by force would gather the Armenians inside churches or monasteries, and burnt them alive. Anyone who attempted to run was shot down. Faiez bek el Ghossein, an Arab Kaimakam of Harput in his book describes how a Turkish officer of Bitlis burnt hundreds inside a church. In Trebizond, thousands of chained Armenians were put on ships or boats which were then sunk or capsized. Ministers Talaat and Enver sent orders after orders to see that Armenians, especially of Armenia proper are exterminated without pity, that orphans were not to be gathered but left to starve and die or forcibly be Turkified. Here is one to the Government of Aleppo:

"Collect the children of the Armenians who by order of the war office have been gathered together and cared for the military authorities. Taken them away on the pretext that they are to be looked after by the Deportation Committee, so as not to arouse suspicion. Destroy them and report."

Here are some examples of the thousands of horrible events which occurred during the genocide.

A gendarme asked for money from an Armenian mother. The mother said she had no money on her, but when she was tortured, she gave all she had kept on her. The Turkish officer in his anger cut both of her arms and feet in front of her daughter and raped the young girl in front of the agonizing mother.

A written statement made by a German missionary, at the American Embassy of Constantinople, before the U.S. Ambassador Henry Morgenthau, said:

"Another terrible thing in Mamuret-ul-Aziz was the tortures to which the people had been subjected for two months; and they had generally treated so harshly the families of the better class. Feet, hands, chests were nailed to a piece of wood; nails of fingers and toes were torn out; beards and eyebrows pulled out; feet were hammered with nails, as they do with horses; others were hung with their feet up and heads down over closets. . . Oh! How one would wish that all these facts were not true. In order that people outside might not hear the screams of agony of the poor victims, men stood around the prison wherein there atrocities were committed, with drums and whistles."

Here is another official eye witness document, Number 113 of the British Blue Book of 1916.

"I have just returned from a ride on horseback through the Baghtcé Osmania plain, where thousands of exiles are lying out in the fields and on the roads, without any shelter and completely at the mercy of all manner of brigands. I found men and women badly wounded—bodies slashed open, broken skulls and terrible knife-wounds.

"A number of corpses were lying about unburied and it was only by bringing the gendarmes that we could induce them to allow their burial. . . .

"On one single day the burial committee buried as many as 580 people. Men were fighting for bread like hungry wolves."

This carnage went on until the end of the First World War. On Feb. 27, 1918 came the ultimate decree by Minister of War Enver: "In view of present circumstances, the Imperial Government has issued an order for the extermination of the whole Armenian race. The following operations are to be made with regard to them:

First, all the Armenians in the country who are Ottoman subjects, from 5 of age upwards, are to be taken out of the town and slaughtered.

Second, all the Armenians still serving the Imperial Armies are to be separated from their divisions without making any disturbance; they are to be taken into solitary places away from the public eye and shot.

The first genocide of this century had been committed.

In a letter dated October 3, 1918 and addressed to Lord Bryce by Robert Cecil, assistant Secretary of State for Foreign affairs of the United Kingdom, wrote "The Ottoman Armenians were systematically murdered by the Turkish government in 1915. Two thirds of the population were exterminated by the most cold-blooded and fiendish methods . . ." Before the genocide 2,380,000 Armenians lived in the Ottoman Empire mostly in Armenian provinces. 1,500,000 of them were massacred. Armenians in Turkey number today 85,000 only.

2050 churches, 203 monasteries were destroyed. Financial losses amounted to 18 billion pounds, above all Western Armenia was emptied of its native people. Armenia became fully Turkish.

Talaat had told to the U.S. Ambassador, Morgenthau, boastfully, "I did more in three months than what Abdul Hamid tried to do in 30 years." On Aug. 31, 1915 Talaat had declared cheerfully to the German Ambassador that the Armenian Question does not exist anymore as Armenians do not exist anymore.

However all Armenians did not get killed. Armenians of Van, Mussa Dagh, etc. resisted in successful self-defence. Others were lucky to survive the deportation. Today, there are 5.5 million Armenians.

SPENDING CEILING ON SOCIAL SERVICES IN REVENUE SHARING

Mr. ROTH. Mr. President, it is my understanding that the conference report on the revenue-sharing bill, which we should consider in the very near future, contains a $2.5 billion spending ceiling on social services.

I have been a strong and outspoken advocate for such a spending ceiling, and I am very much pleased to see that the conferees have adopted what appears to be an airtight limitation. With spending for social services having increased by roughly 700 percent during the past 2 years, there is no question whatsoever that some sort of a ceiling is an urgent necessity. When we have the opportunity to study the conference report on the floor of the Senate, I will speak in more detail concerning the proposed ceiling. At this point, however, I should like to emphasize that this ceiling must be only an interim measure.

It does not—indeed it cannot—provide a permanent solution to the social services problem. As I have said on several occasions, I believe strongly that Congress should reconsider the desirability of this program.

While I am personally convinced that many excellent State programs are fi-

nanced with social services funds, I am deeply disturbed by the total lack of congressional and Presidential oversight. We have no idea how many programs are financed under social services, much less what these programs are. We do know that in one State, $500,000 was spent for a television film and that in another State money is used to teach convicts good grooming. But we know very little beyond that.

To assist in congressional reassessment of the social services program, I wrote the General Accounting Office on September 1 to ask that the Comptroller General investigate the social services program. Friday, I received a reply from the GAO, and I am pleased to say that such an investigation will be conducted. I am convinced that the results of such an investigation will be of great value to Congress.

I ask unanimous consent that the GAO reply be printed in the RECORD.

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

WASHINGTON, D.C.,
September 15, 1972.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ROTH: Your letter of September 1, 1972, urged that the General Accounting Office consider doing work designed to answer questions relating to the effectiveness of social services provided to welfare recipients. Specifically, you requested that we consider reporting to the Congress on:

The effect that services have on helping welfare recipients achieve self-support or reduced dependency, and

The manner in which the Department of Health, Education, and Welfare and several States account for Federal dollars spent on services and the type of State programs being financed with these dollars.

You expressed concern about the need for Congress to have information on program performance, especially in light of the tremendous cost growth in the social service program.

We share your concern about these matters. In planning our work we place special emphasis on performing reviews of Federal programs in which there has been strong congressional interest as to whether the programs have achieved the purposes intended by the enacting legislation. We believe that our current and planned work in the social service program reflects this approach.

As part of our continuing review of programs administered by the Department of Health, Education, and Welfare, we have under way a review designed to determine the effect that social services have on helping recipients of aid to families with dependent children achieve self-support or reduced dependency. This review began in July 1972 and we expect to report our findings to the Congress in the spring of 1973.

We also plan to initiate a review in early 1973 of the manner in which the Department of Health, Education, and Welfare and several States account for Federal funds spent on social services. As part of this review we intend to determine whether specific State programs being financed with Federal social service dollars are directed primarily towards welfare recipients. The exact details of this review and the locations where it will be done are still being considered by our Office.

We believe that these reviews should provide the Congress with information that can assist it in defining the role social services should have in the nation's welfare program. We appreciate your interest in the social service program and believe that these reviews will be responsive to your concern.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

REAR-MOUNTED LIGHTING SYSTEMS FOR MOTOR VEHICLES—S. 3306

S. 3306

Mr. MOSS. Mr. President, on March 7, 1972, I introduced S. 3306, legislation which would require the establishment of standards related to rear-mounted lighting systems for motor vehicles. In my statement, I included certain material which I had obtained from the Center for Auto Safety as well as other documents which support the need for revisions in the vehicular lighting system. I have now received a communication from the Motor Vehicle Manufacturers Association of the United States, Inc., taking issue with some of the comments in the report of the Center for Auto Safety.

In the interest of fairness, I ask unanimous consent that the correspondence I received from the Motor Vehicle Manufacturers Association of the United States, Inc., including the organization's analysis of the Center for Auto Safety study, be printed in the RECORD.

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

MOTOR VEHICLE
MANUFACTURERS ASSOCIATION
OF THE UNITED STATES, INC.,
Detroit, Mich., September 11, 1972.

Hon. FRANK E. MOSS,
U.S. Senate,
The Capitol,
Washington, D.C.

DEAR SENATOR MOSS: The Congressional Record dated March 7, 1972, makes extensive references to a report of the Center for Auto Safety and its quotations and attributions of data and conclusions based on a technical document submitted by the Automobile Manufacturers Association, now Motor Vehicle Manufacturers Association, Inc., to the Department of Transportation.

We have reviewed the quotations and attributions supplied by the Center for Auto Safety, and believe that they are an incorrect representation of what our technical data indicate and support and are being used improperly to advocate a specific system of lighting, without regard to other research which might be done or needs to be done.

We especially call your attention to the attached copy of our letter to the Center for Auto Safety, an additional copy of which is being forwarded to the National Highway Traffic Safety Administration for inclusion in its Docket No. 69–19.

Sincerely,

FRANKLIN M. KREML,
President.

MOTOR VEHICLE MANUFACTURERS
ASSOCIATION OF THE UNITED
STATES, INC.,
Detroit, Mich., September 11, 1972.

Attention: Mr. N. Lowell Dodge.
CENTER FOR AUTO SAFETY,
National Press Building,
Washington, D.C.

GENTLEMEN: The introduction of Senate Bill 3306 and publication of information relative to this bill in the CONGRESSIONAL RECORD [1] have drawn attention to comments which your organization has put in the public record [2] with regard to some vehicle lighting research work conducted by this Association prior to 1967.

The thrust of our publication is to endorse a specific kind of lighting equipment and to base the recommendation for this lighting equipment on your interpretation of our test data. Our review of your submission to NHTSA indicates that it contains many references to lighting research work done by the Automobile Manufacturers Association, now Motor Vehicle Manufacturers Association, Inc., which are either incomplete, have been taken out of context or do not adequately or fairly represent the technical data which are in the AMA report.

The lighting research work to which your report refers did not either promote or discourage consideration of any specific new lighting systems or devices. When the Federal safety agency was activated and the then Director of the National Highway Safety Bureau, Dr. Haddon, expressed interest in such research, a report on the AMA effort was provided to the Department of Transportation [3] because we believed that it would be a useful resource to the Government in its safety related endeavors. We were not subsequently made aware of what consideration the agency gave to this material.

We are concerned now with the use to which the test information has been put by your organization, because you have taken incomplete excerpts and drawn conclusions beyond those which we believe are supported by our data. Consequently, we have carefully reviewed each of the quotations and attributions which you currently make, and have shown these on the attachment to this letter, together with our comments.

In order to correct these misrepresentations and misunderstandings, we are forwarding copies of this letter and its attachment to the Department of Transportation for filing in Docket No. 69–19 as a matter of public information. An additional copy is being forwarded to Senator Moss for his inclusion in his records or those pertaining to Senate Bill 3306.

Sincerely,

FRANKLIN M. KREML,
President.

EXCERPTS FROM THE CONGRESSIONAL RECORD AND COMMENTS

CONGRESSIONAL RECORD

Automotive technology has increased far enough . . . for cautionary lights to be installed on every motor vehicle. Researchers have found that: color coding is the most efficient method of communicating this information. It is the method that results in the shortest response time and the least amount of confusion. Must the motoring public wait another fifty years while countless more people are maimed and killed, before the superior tri-light system is standardized? Based on the evidence cited in this report, the Center for Auto Safety adamantly recommends the tri-light system, and urges its adoption by January 1st, 1974.

COMMENTS

There follows a number of excerpts from the "evidence cited"—with particular at-

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[1] CONGRESSIONAL RECORD—Senate, March 7, 1972, pp. 7243–7251.

[2] Center for Auto Safety letter of January 30, 1972, to Secretary Volpe and its attached Petition for Rulemaking, both comprising item No. 96 on NHTSA Docket No. 69–19.

[3] AMA letters of March 1, 1967, and November 7, 1967 and its attachments to Dr. William Haddon, Jr.

tention to those references which are made to the Automobile Manufacturers Association data—and comments on the validity of this so-called "evidence."

CONGRESSIONAL RECORD

Other groups have also realized that color coding is a major step in improving the rear lighting display: Together these studies suggest that color coding in addition to the intensity coding now used, can be a significant aid in deciding quickly how to react to the action of a lead car. (AMA Vehicle Lighting Committee)

COMMENTS

AMA has provided full information on its lighting studies to DOT, including test data on the positive *and* negative aspects of multicolor rear lighting systems. The references to AMA tests and reports cite only data which can either correctly or incorrectly construed as being favorable to green taillights. The many references that are made in these same data that are unfavorable to green taillights, or which warn of unknown factors, have been ignored.

CONGRESSIONAL RECORD

III. CONFUSION

The main objection to the tri-light system or color coded systems in general, (as submitted to Docket 69–19), is that a system with multicolored lights is confusing; however, none of these claims have been substantiated. Even Douglas Toms, Chief Administrator of NHTSA, stated . . . "and now I have concluded it is too confusing . . . we will not go to multicolor lights and we are opposing inventors of this system." (Bob Irvin's Column, Detroit News, 9–28–71). When later asked to give the basis for this claim, Mr. Toms stated that it was his personal opinion based on a few driving experiences at the G.M. test track. He did not cite any experiments which support his opinion.

AMA's comments on green taillights, as submitted to DOT, are constantly referred to in this document. However, the following section of these comments—on the subject of "confusion"—have apparently been ignored.

Effectiveness of Green in the Visual Clutter of City Lights

Only limited studies have been conducted in city traffic conditions to determine possible confusion which might result from the multiplicity of different colors, including traffic lights, signs, etc. There may also be a problem in connection with red rear identification and clearance lights on commercial vehicles.

Psychological Effects

The question of human reaction to green taillights versus red taillights is of great importance. Only limited studies of this question using qualified drivers and observers have thus far been conducted and we do not know what the effects may be on the average driving public. There is a question as to the use of a green signal which has universally been recognized as a command to "go" as a marker whose intention it should be to flag "caution."

In another section it was stated that:

"In general, there may be possible confusion because a car with the new system may be displaying a green taillight, a red taillight or a red stop light. Cars with the old system still on the road will display red lights at all times.

Vehicles running at moderate speeds will be displaying different taillight colors in mixed traffic conditions.

Summarizing, there may be possible confusion."

CONGRESSIONAL RECORD

In 1967 at the GM Proving Grounds, tests were done with both systems operating [100 cars total]. The results of 541 questionnaires showed that: There was no significant confusion due to the two (2) different tail lights systems operating simultaneously on the Proving Grounds (GM Test Report PG–23062, 4/5/67).

COMMENTS

The quotation cited is one of four results listed in the GM report. One of the important additional results—which was not quoted—was:

"Green taillights were more difficult to see than red taillights of equal intensity at dawn and dusk, in fog, in heavy dust, and in snow."

CONGRESSIONAL RECORD

The AMA Vehicle Lighting Committee compared a green-red to a conventional system and found that there was a 0.2 second difference (20 feet at 65 m.p.h.).

COMMENTS

AMA conducted *no* tests under, or close to, the conditions described (20 feet at 65 m.p.h.).

Summary

Quotation appears to be incorrect.

CONGRESSIONAL RECORD

In AMA testing, the rating of the response time of eight different systems on a scale from one to eight (one being the shortest response time), the conventional system was rated eight, the red-red system was rated 4.5, and the green-red system was rated first with a 0.88 response time.

Although it is not referenced, this quotation is apparently supposed to be from what is referred to as the "AMA report of 10–4–66."* If so, it is incorrect. These AMA tests rated the response of *5* different systems on a *10 pt.* scale (in this test the response time *was* .88 second to the green-red system). In the evaluation of this test the green-red system was given a relative effectiveness of 7.6 in city conditions, 7.7 in the country; the present system was rated 5.5 in the city and in the country.

Summary

If the reported data is purported to come from the above test results, it is incorrect and misleading.

CONGRESSIONAL RECORD

The Automobile Manufacturers of America (AMA), in its Report #2 (10/4/66), found that when red and green lights are at equal candle power, red was barely perceptible at 180 feet and green light at 170 feet. To make the green light recognizable at 180 feet the intensity was recommended to be two times that of the red. Yet at conditions above that of barely perceptible only 16% increase was needed. It is important to keep in mind that this is only a ten foot difference which can be overcome with a slight increase in intensity. Therefore the small increase in visual range should not be considered a reason not to use the tri-light system.

COMMENTS

"AMA" meant the "Automobile Manufacturers Association," as shown on all of the documents which are referenced.

As in the case noted above, the reference to AMA's "Report #2 (10–4–66) is confusing. It is presumed that this is an incorrect reference to the report on tail lamp color that was presented to the AMA Vehicle Lighting Committee on October 5, 1966, and later transmitted to DOT as a portion of AMA's submission of November 7, 1967.

On the assumption that this is the reference cited:

1. It is misleading in that it does not mention that the tests were conducted in a "200-foot" fog.

2. Some of the figures given are incorrect.

The report actually stated:

"Closer analysis of the results of the fog study conducted in a fog chamber leads to the following further conclusions. A red light 4 inches in diameter operating at 2 candlepower is barely perceptible at about 180 feet distance in a "200 foot" fog. A green light of equal photometric intensity would be visible at about 173 feet. In order for the green light to be visible at the same distance as the red light, 180 feet, it would have to have an intensity of 3.75 candlepower. It was previously reported to the VLC that the increased glare potential with green lights was not very great even though green lights of equal intensity to red are somewhat more annoying."

3. The reference to ". . . a 16% increase" was not contained in this report, and is used out of context. The reference to a 16% increase was from an entirely different report, issued at a different time. It stated:

"A discussion of green lamp penetration in fog resulted in the conclusion that at levels clearly visible in fog no appreciable difference is found with green when it is of 16% more candlepower. However, at barely visible levels a green light should be 50 to 150 percent greater in brightness than red."

CONGRESSIONAL RECORD

In an AMA report in 1964 by the Vehicle Lighting Committee, blue-green was termed "excellent" by the raters at both 300 feet and 1,000 feet. Because the results of this experiment were explained as "so implicit," another scheduled test was dropped from the agenda.

COMMENTS

The purpose of the AMA test (No. 1a of the April 6–10, 1964, program) was, as described in the report, to observe the *amber* tail lamps which had been proposed by the Joint Vehicular Signal System Committee, and by others outside of the automobile industry.

The test results indicated that the VLC and LMS members were in unanimous agreement that *amber* is an extremely poor color for tail lamps.

As is noted in the report of the test program, test 1b (also staged primarily to observe amber tail lamps) was not conducted because:

"At conclusion of test 1a, the observers decided that it would not be necessary to conduct test 1b because of the very conclusive results of test 1a."

Blue-green tail lamps were viewed during this test program by a number of observers, including one who was (red-green) colorblind. The reference to these AMA tests does not cite the following results that were included in the report:

"NOTE.—Observations of the (red-green) color-blind observer who was present were:

@ 1000'—Amber, yellow-green and blue-green all appeared as dim white lights.

@ 300'—Amber and yellow-green appeared white, blue-green began to be distinguishable as a colored light."

Summary

The reference to AMA tests was factually incorrect and was quoted out of context.

CONGRESSIONAL RECORD

In AMA Report # 1 (6/8/66) a long distance recognition (3,000 feet) test was run in a 200 foot nighttime fog.

It is not considered that the advantage of red over green observed here is of any consequence at these great distances. (AMA Report # 1, 6/8/66)

COMMENTS

The information presented is not in accordance with the facts noted in the AMA report, and the results attributed to the AMA test are physically impossible.

The AMA report, which did *not* refer to tests in fog, stated:

"With lamps of equal photometric bright-

*The results of these tests were transmitted to DOT in AMA's submission dated November 7, 1967.

ness, taillights can be seen at about 3,000 ft distance, even against the glare of oncoming cars, with about a 10% advantage in distance for the red light. The lamps used in this experiment were about half the candlepower of taillights in common use today. It is not considered that the advantage of red over green observed here is of any consequence at these great distances. Amber is distinctly poorer than red or green."

Summary

Quotation is incorrect.

CONGRESSIONAL RECORD

A report by Ford Motor Company, dated August 1966, states that consumer tests were held with 14,000 people. They "showed a favorable reaction to green lights."

AMA found that in informal observations in city traffic, with a green tail light twice the intensity of the red light used, that:

"Green was very salient, appeared to cause no significant objectionable glare." (AMA Report No. 2)

COMMENTS

1. This was not a "field test" involving cars with green taillights. Rather, as the report states, the test was of lamp and signal color. As described:

"The visitors looked at a rear-projected nighttime driving scene viewed through a long-focus spherical mirror. They were shown alternative systems in sequence and asked to indicate preferences. The resulting probability of preference is listed as follows, where the first color refers to the taillight, the second to the brake light:"

2. AMA's report on this test program also included the following statement:

"The green-red systems were given some prejudicial advantage because nearly ¾ of those presentations were made with the green taillight operated at twice the brightness of the compared red taillight."

3. AMA's report does *not* contain the quotation, "Green was very salient . . ." which is attributed to it.

SOUND FISCAL POLICY REQUIRES IMPROVED BUDGETARY CONTROLS

Mr. ROTH. Mr. President, I invite the Senate's attention to an excellent article published in yesterday's Wall Street Journal.

Dr. McCracken, who served President Nixon as Chairman of the Council of Economic Advisers, puts his finger right on one of our most pressing problems. He aptly points out that sound fiscal policy can only be achieved through improved budgetary controls. He says:

Good budgetry requires a procedure for deciding not only whether each proposed outlay is good, but whether it is good enough to be included within some viable limit or total.

Mr. President, that viable limit is absolutely necessary this fiscal year, if we are going to avoid renewed inflation or stave off tax increases. I have long sponsored a fixed spending ceiling and am delighted that the administration is supporting my call for a $250 billion roof.

In testimony yesterday morning before the House Ways and Means Committee, I urged Chairman MILLS and his committee members to accept my language as an amendment to the upcoming debt ceiling bill. I sincerely hope the House will take this action and the Senate will follow suit.

But, as we look down the road, Professor McCracken's words are well taken. Greater fiscal discipline is a mandatory precursor to effective budgeting. Later on, I plan to introduce legislation which will, I hope, provoke a good Senate debate and bring this critical issue to light.

I ask unanimous consent that Professor McCracken's article be printed in the RECORD.

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

CAN FISCAL POLICY BE CONTROLLED?

(By Paul W. McCracken)

Is it possible that modern governments cannot manage fiscal policy? Only a few years ago to raise such a question would be to mark one as a troglodyte, a hair shirt who had not yet discovered that the thing to do with budgets was not necessarily to balance them but to manage them in ways that would produce the right economic conditions. That might call for a surplus, or a balance or a deficit. It would all depend.

Why the new skepticism?

It is not all home grown. Part of it grows out of international experience. In the early part of last year, for example, Germany was concerned about inflationary pressures on her economy. The concern was understandable. The German price level was rising at the rate of over 6% per year. This was about our rate at its worst in 1969, and it was particularly unacceptable to an inflation-conscious country like Germany. The fiscal prescription for this problem was obviously to limit spending and run a good strong budget surplus. The fiscal program that actually unfolded involved deficits and expenditures which rose 12% in 1971. Fiscal restraint, never popular politically, apparently looked particularly unattractive to this government with its thin parliamentary majority. A tough monetary policy was, therefore, deployed, but this drove interest rates above world levels and attracted a flow of funds into the country which aggravated the international monetary problems of that period.

It might be assumed that modern fiscal policy could at least be worked in the expansionist direction. Yet Japan has had its problems putting in place a sufficiently easy fiscal policy. Their sluggish domestic economy has had more slack than ours. This has, of course, produced sluggish imports, a large trade surplus, and emergent pressure for another upward revaluation of the yen (something which they very much want to avoid). Moreover, Japan needs to spend more on social facilities to bring them more into line with those needed by an advanced and high-income nation. Yet the required degree of fiscal expansion never really has been put in place.

A look over the world economy during recent years, in short, produces a picture of economic conditions which called for fiscal policies that the political process did not, and presumably could not, provide.

It is when we examine our fiscal problems at home, however, that doubts about how maneuverable fiscal policy really is have begun to emerge. Before we dismiss Japan's difficulty in achieving a sufficiently expansive fiscal policy as a special case, we should recall our own major excursion into tax reduction almost a decade ago. President Kennedy recommended tax reduction in January 1963, and indicated earlier that he would do so, but the actual tax reduction could not be achieved until March 1964.

RISING PUBLIC OUTLAYS

The real problem for modern fiscal policy, however, is the relentless rise in public outlays. The magnitudes are impressive. In 1965 the economy regained reasonably full employment. Yet from 1965 to 1968 the rise in federal, state, and local outlays (on a national accounts basis) was equal to almost 57% of the rise in national income, and the figure for the period 1968 to 1972 (first quarter) was almost 48%. With roughly half of the increase in national income absorbed by rising government outlays, the groundswell of public concern about taxes becomes understandable. Somehow our expenditure decision-making process has been giving us a larger rise in outlays then people are ready to pay for. The result is a trend that will carry expenditures for this fiscal year at least $10 billion beyond revenues that the tax system would produce at reasonably full employment.

Part of the problem is that to a growing extent federal outlays reflect permanent programs with yearly increases built in. They are thus uncontrollable in the literal sense unless legislation is changed. Social Security, agriculture, welfare—these are programs whose aggregate outlays will be determined by specified benefit levels and the number of eligible recipients. We thus have outlays on a path that is rising more rapidly than the increment of revenues that on-going economic growth will provide from any given tax system. The fiscal dividend of the 1960s has been replaced by the fiscal mortgage of the 1970s. If outlays continue to rise this rapidly, periodic increases in tax rates or new taxes will be required, something that the political process will not find it easy to deliver.

The problem has many roots, but a major one is the "new" fiscal policy itself. In retrospect it seems clear that the "new" fiscal policy threw a baby out with bath water—namely, the idea of fiscal discipline. The old always-balanced budget philosophy did seem at times to call for perverse actions, such as increased taxes or slashed spending in recessions, but it did impose a discipline. It in principle, required that governments couple with the delectabilities of spending the distasteful task of raising taxes. Thereby a rough cost-benefit equilibrium was achieved.

It was achieved intellectually, and it worked surprisingly well practically. Up to the Great Depression the budget had a surplus in two nonwar years out of three, while in the postwar period there have been deficits in two out of three years. "Marriage is popular," observed George Bernard Shaw, "because it combines the maximum of temptation with the maximum of opportunity." Something like this seems to have characterized the actual workings of modern fiscal policy. Having been told that there are times when the budget ought not to be balanced, the political process finds it tempting to assume that "now" is one of those times. And the always-balanced principle has metamorphosed into a never-balanced budget.

If modern fiscal policy is ever to live up to its potential, the concept of fiscal discipline must regain a central position in budget policy.

The President put forward a helpful concept with the idea that outlays should not exceed the revenues the tax system would generate at reasonably full employment. This would enable the budget to be expansive during a period of sluggish economic conditions, but it would assure that the budget would come back into equilibrium, with revenues covering outlays, when no further economic stimulus was needed.

CONGRESS IS THE KEY

The key to regaining a greater sense of fiscal discipline is in the Congress. Present congressional procedures do a reasonably effective job of screening the merits of individual requests for money. In that sense the budget problem is not waste and foolish spending. What one person considers "waste" or "unessential spending" is, of course, another's high-priority program. The problem is that the aggregate of individually meritorious programs will always exceed any viable total. In that important sense the federal government's budget problem *is* similar

to that of a family or a business. There are other respects in which it is different, but economists have been so preoccupied with the differences that this important parallel has been overlooked.

Good budgetry, therefore, requires a procedure for deciding not only whether each proposed outlay is good but whether it is good enough to be included within some viable limit or total. This is the missing element in the congressional process. Without it the whole process has a bias toward larger spending than the citizenry will want—want in the only meaningful sense of what it is willing to forego in the way of private spending for these public programs.

The Appropriations Committees have made a small beginning by initial hearings on the budget as a whole. This is a good start. It should develop further into some meaningful actions about each year's budget as a whole.

What is essential is some procedure by which the Congress itself will decide what total outlays should be, and by which Congress also explicitly accepts responsibility for the aggregate expenditures which are the result of their individual program decisions. The initial congressional overview of the whole budget might be extended to include a total within which individual program decisions would have to fit (though early postwar attempts along this line were quickly dropped). Individual appropriations bills could be held until all are passed in order to see what the results would be for total outlays, with perhaps an amendatory bill to keep the total within a viable limit.

Whether modern fiscal policy can yet become a powerful tool for economic adjustment, or whether it must remain a theoretical idea with little substance in reality and largely immobilized by a relentlessly rising outlay trend, is going to depend heavily on whether a greater degree of fiscal discipline can be injected into the budgetary process. Because fiscal policy has substantial potential for domestic economic management and for harmonizing divergent national objectives in the world economy, it is important that the budgetary process be subjected to this greater sense of discipline.

On this both the "new" fiscalists and the "old" budget balancers have common ground.

PRESCRIPTION PRACTICES AND THE USE OF DRUGS

Mr. NELSON. Mr. President, the Harvard Medical Alumni Bulletin of May–June 1972 carried an article entitled "Burack's Rx." The author, Dr. Richard Burack, is a distinguished physician and author of the "New Handbook of Prescription Drugs"; was formerly on the staff of the Harvard Medical School; and is now chairman of the Massachusetts formulary committee.

Dr. Burack states that despite the physician's special responsibility as the purchasing agent for his patient, irrational prescribing practices and use of drugs, especially overprescribing, has become a very serious health problem in this country. Dr. Burack's article is supported by many other studies. An article in the Annals of Internal Medicine, April 1972, by Drs. Paul Stolley, Louis Lasagna, and others found that a large amount of drug prescribing and expenditures are for common, self-limiting illnesses. In fact, 95 percent of American physicians will issue one or more prescriptions to patients whom they diagnose as having the common cold, and 60 percent of these prescriptions will be for antibiotics.

Prof. Charlotte Muller in an article in the "American Journal of Public Health" of December 1967 described a study of 1-percent sample of over 100,000 prescriptions written by 159 physicians rendering care under the public welfare medical care program of Baltimore, Md. It was found that 55 percent were for proprietary preparations, and Dr. Furstenberg, who conducted the study identified the actions as pointless waste of the program's money since less expensive official preparations—listed in official sources—were quite suitable.

Another very interesting example which demonstrates Dr. Burack's point is that of Panalba, a fixed-ratio combination antibiotic. The National Academy of Sciences in its review of this drug stated that:

A large number of papers purporting to demonstrate clinical efficacy of this combination were reviewed. No properly controlled studies were located and most consisted of reports of a few patients treated with variable results. It is the considered judgment of the Panel that this combination has no place in rational therapeutics and should not be marketed.

Although there was not a single, solitary study to show that this drug was effective as a combination, for many years it was one of the 50 most used drugs in the country, that is until it was removed from the market by the FDA, and not until, according to figures supplied by the FDA, thousands of people had been injured and some died.

Dr. Donald C. Brodie in a study sponsored by the Department of Health, Education, and Welfare's Public Health Service found that:

It is common knowledge that much drug therapy avails little or nothing in terms of patient benefits and that the national waste from all sources of the misutilization of drugs is a multibillion dollar item.

I ask unanimous consent that Dr. Burack's excellent article be printed in the RECORD.

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

BURACK'S RX

(By Richard Burack, M.D.)

The Nation is gripped by an epidemic of irrational prescribing practices on the part of doctors. The effects have been, and will be, more destructive than most members of the profession realize unless something is done.

Doctors are prescribing too many drugs. Nearly everybody knows it, but nothing is done about it. A distinguished clinical professor of medicine at Columbia recently testified before the United States Senate that, in his opinion, about 60 percent of prescriptions are unnecessary. From my own busy, private practice of internal medicine, I know that 98 percent of all patients can be adequately treated with 25 or fewer drugs and some of these need be used only rarely.

Overprescribing is the most serious form of irrational use of drugs by doctors. While one can quibble with figures, every doctor and medical student ought to know that the United States Food and Drug Administration is on record within the past year: approximately 1.5 million persons are admitted to hospitals annually because of adverse reactions to drugs and another 2.5 million have their hospital stays prolonged because of adverse reactions to drugs administered in hospitals. The FDA is not given to overstatement. Obviously, human and material costs of misadventures with doctor-prescribed drugs are incalculable. Most illnesses and symptoms are self-limiting, require no prescription, and doctors ought to tell this to patients.

The prescribing of toxic drugs when less toxic ones would suffice is another form of irrational prescribing. Knowledge that chloramphenical (one brand name, Chloromycetin) can cause fatal aplastic anemia has been known to the profession since 1951. The drug is useful in typhoid fever. Yet, four million Americans received a course of Chloromycetin for varied reasons including common urinary infections, common colds, even for infection associated with ingrown toenails as recently as 1967. There is no excuse for this irrationality. And it does not enhance the image of the profession to know that a Congressional Committee had to expose this scandal; the profession had taken no effective measures on its own to educate its members. Medical journals, including the superficial, parasitic "giveaway" sheets, had been advertising the drug heavily, and according to a distinguished business journal (*Forbes Magazine*), Parke-Davis, Inc. had been receiving one-third of its income from the sale of Chloromycetin in 1966.

There are many other examples: Tedral for asthma instead of plain ephedrine sulfate. Tedral is a fixed dose combination of theophylline (in a very small dose which is probably ineffective), eight milligrams of phenobarbital and 25 milligrams of ephedrine sulfate. Doubtless it is the latter which confers effectiveness on Tedral and it is hard to understand why doctors expose their patients to possible toxic effects of theophylline and phenobarbital unnecessarily. Thousands of doctors routinely prescribe ampicillin for adults where less toxic tetracycline would almost always serve as well. They also prescribe concoctions containing systemic vasoconstrictors like pseudoephedrine and phenylethanolamine for people with stuffy noses. Constricting all the blood vessels in the body in order to constrict the blood vessels in the nose seems the height of folly. Most patients who are given such drugs would do as well with salt-water nose drops or drops with a local vasoconstrictor such as phenylephrine. Another example in this category is the habit of prescribing Indocin routinely instead of aspirin for patients with arthritis.

Doctors are prescribing expensive drugs where a less expensive one would suffice: V-Cillin-K instead of penicillin G, ampicillin instead of tetracycline, Gantrisin instead of triple-sulfa tablets, various sedatives ranging from Serax to Serentil to Sinequan, instead of chloral hydrate or phenobarbital. Few doctors know and too few students have been taught that the wholesale cost of two of the most popularly prescribed tranquilizers equal 25 times the official cost of gold for one, and ten times the cost of gold for the other.

Doctors have been prescribing therapeutically unnecessary and unnecessarily expensive combinations of drugs, some of which are, or may be, ineffective: Azogantrisin instead of triple-sulfa tablets; Achrostatin instead of tetracycline with the advice to take a couple of aspirin tablets, too; Panalba instead of tetracycline; Colbenamid instead of probenecid (now available inexpensively) plus a little colchicine as needed; Darvon Compound-65 instead of codeine sulfate plus the advice to take two or three aspirin tablets, too; Novahistine instead of either an inexpensive antihistamine or low cost over-the-counter nose drops containing phenylephrine (the best known brand is Neosynephrine).

The list is very long because approximately 40 percent of the medicines prescribed by doctors are so-called fixed dose combination

items, nearly every one of which is unacceptable to the Council on Drugs of the American Medical Association, The United States Pharmacopeia, and the National Formulary. The standard argument given by colleagues who prescribe such things is that it's so much more convenient for a patient to swallow one pill instead of two or three. The counter-argument is that most doctors are relatively affluent with respect to most patients who might well prefer a minor inconvenience in order to save some money. Ten percent of the population purchase 25 percent of the drugs. Within this ten percent are the elderly and most of those live on small pensions or social security.

Doctors prescribe expensive "new" drugs instead of less costly older (and, therefore, probably safer) ones. Lomotil is all too often given routinely instead of paregoric for diarrhea. Banthine and Probanthine are nearly always prescribed instead of atropine sulfate or tincture of belladonna even though there is no convincing evidence that they are therapeutically superior, Atarax, Vistaril (they are chemically the same), Serentil and Suavatil are prescribed by many doctors instead of phenobarbital or chloral hydrate. Recently, I have noted the easy adoption by many physicians of something called Dalmane, a sleeping medication. What is wrong with inexpensive barbital, secobarbital, and pentobarbital?

Many readers will be able to add to the list of irrational ways that so many members of our profession prescribe medicines.

The reasons for irrational prescribing are multiple, but they boil down to economics and mass promotion. A highly monopolistic drug industry has taken away doctors' individualism and has managed to tell them how to prescribe. About five thousand dollars per doctor per year is spent to this end; that is about one billion dollars—more than it costs annually to administer all of the medical schools in the United States. The slick (and too often noncompostable) parasite press drums propaganda in the doctors' ears and itinerant salesmen who are euphemistically called "detail men" flatter doctors, give them little gifts, ply them with "samples" on new drugs and persuade them with carefully rehearsed "spiels" to "try it, Doctor, and you'll see." Professional people have no business receiving their "education" from advertisements and salesmen. No thoughtful doctor would use a lawyer whose decisions might be influenced by advertising and promotion.

Our very authoritarian profession has been a perfect set-up for insidious infiltration by the drug industry. A few big professors have been flattered and/or given subsidies of one kind or another and this is all it takes to mute their voices. They know that the goal of the industry, as an industry, is to maximize profits. They know that this is done by inducing busy doctors-in-the trenches to prescribe more drugs than needed and make as much profit on the sale of any individual drug as possible. These are not the goals of good doctors. It is strange indeed that the influential members of our profession have not made it crystal clear to medical students that the aims of doctors and the aims of drug manufacturers are antithetic and irreconcilable. The influential ones have utterly failed to tell medical students and young doctors-in-training that when a doctor writes a prescription for a patient, he is functioning as a purchasing agent. Purchasing agents are expected to know the costs and comparative costs of things they order and something about the comparative efficacy. Purchasing agents in good stores are not allowed to accept gifts from vendors, either. If they do, they are fired. And men in political life, who conduct themselves similarly, are immediately labeled "corrupt."

There is no blinking at the facts and there obviously is every reason for the medical leadership to take strong steps to clean house. What is best for patients is in the long term best for doctors. But while I cling to hope, I am not optimistic that the medical profession will act by itself. Money, power, privilege, and vested interest are no less powerful hormones today than they have ever been.

Mark this, though, and mark it well: the political leadership and increasing millions of citizens recoil at the thought that artificially-induced markets and overly-inflated industries are tolerated within the field of health care.

RAISING THE EARNINGS CEILING UNDER SOCIAL SECURITY

Mr. FANNIN. Mr. President, at the request of the distinguished Senator from Texas (Mr. TOWER), I ask unanimous consent that a statement by him relating to the raising of the earnings ceiling under social security be printed in the RECORD.

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

STATEMENT BY SENATOR TOWER

The distinguished majority leader (Mr. Mansfield) and the distinguished Senator from Vermont (Mr. AIKEN), the ranking member of the Senate, have introduced S. 4001. The proposed legislation would increase the amount of outside earned income an individual may earn without having any deductions made in his social security benefits. Under the bill the ceiling would be raised from the present amount, which is $1680 to $3000. Furthermore, the bill would insure that under no circumstances a social security beneficiary would be penalized for working. This would be accomplished by deducting only 50 cents in social security benefits for every $1 of earned income.

Senators Mansfield and Aiken introduced the bill with seventy co-sponsors. I am proud to be among the list co-sponsoring this most important proposal. Certainly, the list of co-sponsors indicates that the legislation has an excellent chance of being approved by the Senate.

I have recognized this particular problem facing social security beneficiaries for some time. Government should not discourage our Senior Citizens from participating actively in our economy. They are no different from anybody else in enjoying much of the work they do. Furthermore, with most of their income derived from social security, Senior Citizens are extremely susceptible to the economic injuries resulting from inflation.

It was for these reasons that during the opening days of this Congress, I introduced S. 639. This legislation is very similar to the proposal introduced by Senators Mansfield and Aiken and co-sponsored by seventy other Senators. The only difference in the two bills is that S. 4001 contains a provision whereby the earned income ceiling would be automatically adjusted to take into consideration rising wage levels and the cost of living. This provision represents a positive supplement to my original proposal and I therefore endorse it.

Now that the basic proposal that I had recommended has received the support of the vast majority of the Senate, I trust that its enactment will be realized in the near future.

FIRM CEILING ON FEDERAL EXPENDITURES FOR FISCAL YEAR 1973

Mr. BOGGS. Mr. President, yesterday my able colleague from Delaware (Mr. ROTH) testified before the House Ways and Means Committee, seeking support for his legislation to place a firm ceiling on Federal expenditures for fiscal year 1973. I supported his bill in March, along with 48 other Senators, and I sincerely hope the Senate will act favorably on his latest proposal, S. 3977.

I ask unanimous consent that Senator ROTH'S testimony of yesterday be printed in the RECORD.

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

STATEMENT OF SENATOR WILLIAM V. ROTH, JR., BEFORE COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, and Members of the Committee, I greatly appreciate this opportunity to appear before you as you consider the pending legislation to raise the ceiling on our national debt limitation.

My prepared statement will be short, and speaks to the much publicized call for a tight lid on Federal outlays in this current fiscal year. This measure seems particularly germane to the debt ceiling bill, for it is the overall impact of expenditures and the net outflows in the loan accounts that produce the Treasury's need to borrow. Both Houses have met twice already this year to adjust the debt limit, simply because our Federal expenditures continue their inexorable rise.

I have been the chief spokesman for expenditure controls in the Senate since my able predecessor John Williams retired two years ago. His example is one I am happy to follow. Last November, I offered an amendment to the Revenue Act to hold FY 1972 outlays to $229.3 billion. We lost in the Senate by only 7 votes. And then in March of this year, I continued this thrust with an amendment to the debt ceiling, leveling outlays at $246.3 billion. Through a modified version of my language was accepted, further language introduced by Senator Long left the amendment with a floating lid which would have failed to impose the necessary fiscal discipline I feel is so important. The conferees in March rejected the Senate language.

Briefly, my most recent bill, S. 3977, would place a no-exception ceiling on FY 1973 outlays at $250 billion. (The bill's earlier companion, S. 3123, received the support of 49 other Senators, including both majority and minority leaders.) The language of my bill would mean that increases in uncontrollable categories would have to be offset by corresponding reductions in other discretionary programs. I am delighted to see that several distinguished Representatives, together with 129 co-sponsors, have recently introduced identical measures on this side. This seems to me the only honest way to approach expenditure controls, for it is *total* spending, regardless of its controllability, that affects our *total* debt requirements.

Mr. Chairman, there seems to me to be four compelling reasons for such a ceiling.

First, the Federal budget has not really served the meaning of the word. By the very nature of our political process, the budget is simply a guess at revenues and outlays. I have a table here I would like to insert in the record which shows that in the 20 years since FY 1954, we have overspent the estimate 16 times. Taken together with the shortfall in receipts (Table II) the total impact has been a series of deficits, $91.5 billion more than originally planned. These would be unacceptable in any private enterprise, and when we

realize that proportionally higher spending and lower receipts have magnified those deficits in recent years, can we reasonably expect FY 1973 to be different if we do not impose this measure of self-discipline?

This brings me to my second point. As Federal deficits continue to rise, the American public places less and less confidence in the desire, or ability, of the Congress to achieve a sensible balance between fiscal stimulation and restraint. The most recent fiscal year, with its roller-coaster record of predictions and actualities is a perfect example. We have given the Administration authority to manage the Economic Stabilization program, which calls for sacrifices throughout the private sector, yet to date, Congress has shown no inclination to follow suit. Rightly or wrongly, if an uncontrollable Federal budget spells inflation to the average businessman or consumer, his behavior will naturally subvert the objectives of Phase II and perhaps lead to a longer and more painful Phase III.

Setting this example of a firm ceiling at $250 billion seems hardly sacrificial on our part. It will still create some $32 billion in deficit financing, the largest since World War II. With our domestic economy returning slowly to normalcy, an exemplary action by the Congress could well restore private confidence in our public decision making. We have all seen what happened in the height of 1969's inflation. Counterproductive as it was, people increased their savings, even though their dollars would buy less in another year, businesses cancelled plans for expansion, and the slowdown helped produce an aggravating and tragic situation of unemployment. It seems to me little enough to ask Congress and the Administration to hold to a sensible spending guideline when we are asking automakers, and supermarkets, doctors, and machinists, schoolteachers, and housewives alike to adhere to current controls.

Thirdly, our inflationary problem does not stop at the U.S. border. Our deteriorating trade deficit has been caused in part by America's inability to compete in world markets. I cannot pretend to be an expert on international economic problems, but the figures really speak for themselves. A fourth table here shows the widening import-export gap. We used to enjoy a healthy surplus, particularly in manufactured goods, but as the factor inputs of these products—labor and raw materials—have become more expensive, our surplus has turned to a festering deficit.

Parenthetically, too, the long-term success of our recent bold moves to adjust the parity of the dollar and freeze our remaining supply of gold, depends on international confidence in the U.S. dollar. Foreign central banks and exchange markets carefully watch our domestic economic activities. Runaway Federal deficits can only erode our trading partners' desire to hold dollars as a reserve currency, above and beyond their day-to-day needs. In the past two years, foreigners have acquired more than $30 billion in Treasury securities. Their desire to hold that debt, instead of redeeming it at maturity, will depend on the health and stability of our domestic economy.

Lastly, we all live with the haunting issue of tax increases. No other action with which we deal receives as much attention from our constituents, regardless of their wealth. I am sure this Committee of experts is well acquainted with the most recent Brookings report on National Priorities. It contains a very clear message—under present conditions, revenues will not be adequate to cover expenditures, if the Federal budget continues to grow at its current rate. I, for one, favor periodic review of our tax system, but every tax reform proposal I have seen recognizes that *substantial* revenue gains cannot be achieved without tapping the vast majority of middle income Americans. "Soak the rich" schemes simply will not produce the tax dollars we will need if Federal spending rises $20 plus billion a year. I certainly think it is fantasy to imagine no increases in taxes next year unless both the Congress and the Administration get tough on spending, starting right now.

Mr. Chairman, let me say in closing that I would happily support a figure lower than $250 billion, if we could get it through the Congress. I have tried in the past, though, and not succeeded. Senator Proxmire, for one, has proposed a level of $240 billion. (Should the Senate uphold the House cuts in Defense appropriations and the Congress as a whole fails to act on Title IV of H.R. 1, I can well see the ceiling being dropped $4 billion, or so.)

I will try to answer any questions you may have on this amendment and would urge that it be adopted as part of the pending debt bill.

Thank you.

TABLE I.—VARIATIONS IN ORIGINAL BUDGET PROJECTIONS (EXPENDITURES)

[In billions of dollars]

Fiscal year	Original expenditure estimates	Actual expenditures	Difference
1954	66.3	70.9	4.6
1955	65.4	64.4	−1.0
1956	61.2	66.2	4.1
1957	64.6	69.0	4.4
1958	71.2	71.4	.2
1959	73.6	80.3	6.7
1960	76.3	76.5	.2
1961	79.1	81.5	2.4
1962	80.9	87.8	6.9
1963	92.5	92.6	.1
1964	98.8	97.7	−1.1
1965	97.9	96.5	−1.4
1966	99.7	107.0	7.3
1967	112.8	125.7	12.9
1968	135.0	143.1	8.1
1969	186.1	184.6	−1.5
1970	195.3	196.6	1.3
1971	200.8	211.4	10.6
1972	229.2	231.6	2.4
1973	246.3	[1] 250.0	[1] 3.7
Total	2,333.9	2,404.8	+70.9

[1] Latest estimates, through Aug. 4, 1972.

Source: Office of Management and Budget.

TABLE II.—VARIATIONS IN ORIGINAL BUDGET PROJECTIONS (RECEIPTS)

[In billions of dollars]

Fiscal year	Original receipt estimates	Actual receipts	Difference
1954	70.3	69.7	−0.6
1955	62.5	60.2	−2.3
1956	59.7	67.8	8.1
1957	65.0	70.6	5.6
1958	73.1	68.6	−4.5
1959	74.0	67.9	−6.1
1960	76.4	77.8	1.4
1961	83.3	77.7	−5.6
1962	82.3	81.4	−.9
1963	93.0	86.4	−6.6
1964	86.9	89.5	2.6
1965	93.0	93.1	.1
1966	94.4	104.7	10.3
1967	111.0	115.8	4.8
1968	126.9	114.7	−12.2
1969	178.1	187.8	9.7
1970	198.7	193.7	−5.0
1971	202.1	188.4	−13.7
1972	217.6	208.6	−9.0
1973	220.7	[1] 223.0	2.3
Total	2,269.0	2,247.4	−21.6

[1] Latest estimates.

Source: Office of Management and Budget.

TABLE III.—BALANCES IN FEDERAL FUNDS, UNIFIED BUDGET, AND FULL EMPLOYMENT, LEVELS OF FEDERAL DEBT, AND DEBT INTEREST, 1963–73 INCLUSIVE

[In billions of dollars]

Fiscal year	Federal funds	Unified budget	Full employment budget	Total gross Federal debt at Dec. 31	Total debt interest
1963	−6.5	−4.8	+4.4	310.9	9.2
1964	−8.6	−5.9	+2.1	316.8	9.8
1965	−3.9	−1.6	+2.4	323.2	10.3
1966	−5.1	−3.8	−6.1	329.5	11.3
1967	−15.0	−8.7	−10.6	341.3	12.6
1968	−28.4	−25.1	−25.2	369.8	13.7
1969	−5.5	+3.2	0	367.1	15.8
1970	−13.1	−2.8	+2.6	382.6	18.3
1971	−30.2	−23.2	−3.2	409.5	19.6
1972	−28.9	−23.0	−3.6	[1] 445.8	21.8
1973[1]	−41.3	−34.2	−3.0	493.1	22.1

[1] Estimates.

Source: Office of Management and Budget.

TABLE IV

[Millions of dollars]

Period	Merchandise exports: Total (including reexports)[1] Seasonally adjusted	Merchandise exports: Total (including reexports)[1] Unadjusted	Merchandise exports: Domestic exports Total[1 2]	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Merchandise imports: General imports[3] Total[2] Seasonally adjusted	Unadjusted	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Gross merchandise trade surplus, seasonally adjusted
Monthly average:												
1963	1,869	1,845	349	315	1,191		1,428	322	396	672	441	
1964	2,153	2,123	386	361	1,377		1,562	335	419	759	590	
1965	2,229	2,201	377	356	1,453		1,786	334	453	937	444	
1966	2,458	2,421	432	367	1,602		2,135	382	476	1,204	323	
1967	2,586	2,554	392	394	1,737		2,241	392	447	1,313	345	
1968	2,839	2,802	383	405	1,985		2,769	447	503	1,719	70	
1969	3,111	3,066	370	417	2,232		3,004	442	533	1,918	107	
1970	3,555	3,502	422	558	2,445		3,329	519	545	2,159	226	
1971	3,629	3,576	423	537	2,437		3,797	534	606	2,534	−168	

Period	Merchandise exports: Total (including reexports) [1] Seasonally adjusted	Merchandise exports: Total (including reexports) [1] Unadjusted	Merchandise exports: Domestic exports: Total [1 2]	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Merchandise imports: General imports [3] Total [3] Seasonally adjusted	Unadjusted	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Gross merchandise trade surplus, seasonally adjusted
		Unadjusted						Unadjusted				
1971:												
May	3,776	3,907	3,847	423	550	2,785	3,988	3,845	520	607	2,591	−212
June	3,662	3,687	3,626	395	546	2,604	4,012	4,271	593	665	2,888	−350
July	3,493	3,338	3,293	385	468	2,362	3,793	3,693	565	629	2,367	−300
Aug	3,678	3,366	3,329	384	515	2,353	3,928	3,838	616	640	2,462	−251
Sept	4,505	4,220	4,166	586	586	2,934	4,237	4,246	714	659	2,760	268
Oct	2,708	2,826	2,774	294	394	2,026	3,523	3,463	352	571	2,414	−815
Nov	3,160	3,221	3,177	395	471	2,247	3,379	3,522	353	598	2,454	−218
Dec	3,858	4,056	3,999	536	644	2,738	4,128	4,279	606	710	2,822	−270
1972:												
Jan	4,221	3,815	3,766	506	567	2,601	4,540	4,280	631	702	2,820	−319
Feb	3,806	3,780	3,723	485	527	2,632	4,403	4,177	626	673	2,763	−598
Mar	3,891	4,310	4,250	426	611	3,119	4,475	4,844	554	756	3,401	−584
Apr	3,760	3,887	3,812	396	567	2,754	4,460	4,248	544	659	2,918	−699
May	3,914	4,143	4,074	508	565	2,917	4,466	4,722	604	731	3,254	−552
June	3,905	4,015	3,942	528	557	2,762	4,495	4,767	614	715	3,306	−590

[1] Total excludes Department of Defense shipments of grant-aid military supplies and equipment under the military assistance program.
[2] Total includes commodities and transactions not classified according to kind.
[3] Total arrivals of imported goods other than intransit shipments.

Note: Data adjusted to include silver ore and bullion reported separatedly prior to 1969.
Source: Department of Commerce.

OUR HERITAGE IS FREEDOM, ADDRESS BY SENATOR ERVIN BEFORE THE FEDERAL BAR ASSOCIATION NATIONAL CONVENTION

Mr. BIBLE. Mr. President, one of the great constitutional lawyers of this body, the distinguished senior Senator from North Carolina (Mr. ERVIN), addressed a luncheon session of the Federal Bar Association National Convention on September 15 here in Washington, D.C.

At that time, Senator ERVIN spoke out again about the dangers to individual freedom which many believe are to be gaining ground in this country in diverse areas.

The threats about which the Senator warned can arise in private and governmental organizations. I found much food for thought in the distinguished Senator's presentation, and I hope that all lawyers who work for the Federal Government, or are associated with it, will keep these words in their minds and hearts.

I ask unanimous consent that Senator ERVIN's remarks be printed in the RECORD.

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

OUR HERITAGE IS FREEDOM

(By Senator SAM J. ERVIN, Jr.)

Our heritage is freedom. The Constitution makes this manifest by declaring in its preamble that George Washington and his colleagues in the Convention of 1787 framed that instrument to secure the blessings of freedom to all Americans of all generations.

While love of freedom inspired the Constitution, it did not have its origin in our land.

The love of freedom was brought to our land before the Revolution by courageous men and women from the British Isles, Holland, the vineclad hills of France, the Palatinate of Germany, and the mountains of Switzerland, who craved above all things the freedom denied them by the tyrannical civil and ecclesiastical rulers of the Old World.

Since so many men appear so anxious nowadays to swap the reality of freedom for the mirage of security, it would be well for us to ponder the choice our ancestors made when they forsook the comparative security of the Old World for the terrifying insecurity of the new.

It was not without many pangs of regret that they turned their backs for all time upon the scenes of their childhood, the graves of their beloved dead, and the comparative security of the then civilized world, and journeyed in tiny barks across a boisterous ocean to establish homes for themselves and their children and their children's children in what was then a perilous wilderness in a new and strange land.

Why did they do this? Why did they exchange the comparative security of the Old World for the terrifying insecurity of the new? The answer is simply this: they preferred freedom to security.

While it is an indivisible whole, freedom does reveal herself in a fourfold guise as economic freedom, political freedom, religious freedom, and intellectual freedom.

ECONOMIC FREEDOM

The brave men and women who brought the love of freedom to our land did not learn economics sitting at the feet of those who promise "abundance for all by robbing Selected Peter to pay Collective Paul."

They acquired their knowledge in the hard school of experience, which is the most dependable of teachers. As a consequence, they had the hardihood to accept the economic truths plainly visible to all human beings who possess both the capacity and the willingness to accept reality.

They knew that earth yields nothing to man except the product of his own labor. They knew that Adam's curse is an unchanging and unchangeable law of life: "In the sweat of thy face thou shalt eat bread til thou return unto the ground."

They knew that man has but one choice in respect to this immutable economic fact, and that such choice is simply this: Whether the bread which he must eat in the sweat of his face shall be the bread of freedom or the bread of bondage.

They knew this unalterable decree of the creator of the universe: Free men cannot be induced to produce things of value unless they are permitted to retain a fair share of the fruits of their labor for themselves, their families, and the causes they hold dear.

They knew, moreover, that man can be free only if he is willing to accept responsibility for his own life.

They also knew the truth embodied in Michelangelo's assertion: "It is only well with me when I have a chisel in my hand."

As a consequence of these things, the valiant folks who made America realized not only that economic freedom is an absolutely necessary attribute of a free society, but also that it most effectively encourages men and women to make of themselves everything God gave them any possibility of becoming.

POLITICAL FREEDOM

The men and women who made America believed that governments derive their just powers from the consent of the governed. Moreover, they had absorbed the lessons taught by the history of the struggle of the people against arbitrary power for the right to be free from tyranny. Hence, they comprehended some eternal truths respecting men and government.

They knew that those who are entrusted with powers of government are susceptible to the disease of tyrants, which George Washington rightly diagnosed in his Farewell Address as "the love of power and proneness to abuse it." For this reason, they realized that the powers of public officers should be defined by laws which they as well as the people are obligated to obey.

They also knew the truth subsequently embodied by Daniel Webster in this aphorism: "Whatever government is not a government of laws is a despotism, let it be called what it may."

For this reason, they realized that liberty cannot exist except under a government of laws, i.e., a government in which the conduct of the people is controlled by certain, constant, and uniform laws rather than by the arbitrary, uncertain, and inconsistent wills of the men who occupy public offices, and in which the laws accord to the people as much freedom as the commonweal permits.

They likewise knew that Thomas Hobbes had proclaimed an unalterable principle when he said: "Freedom is political power divided into small fragments."

They knew, moreover, the political truth afterwards phrased by Woodrow Wilson in these words:

"Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of the limitation of governmental power, not the increase of it. When we resist therefore the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties."

For these reasons, they realized that the powers of government should be diffused among different repositories, that "local

processes of law are an essential part of any government conducted by the people," and that "no national government . . . can be as closely in touch with those who are governed as can the local authorities in the several states and their subdivision."

To preserve for themselves and their posterity the blessing of freedom, they framed a Constitution which created a government of laws conforming to these eternal truths, and which they intended to last for the ages and to constitute a law for rulers and people alike at all times and under all circumstances.

RELIGIOUS FREEDOM

The most heart-rending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple privilege of bowing his own knees before his own God in his own way. As Chief Justice Walter P. Stacy of the North Carolina Supreme Court so well declared in one of the great judicial opinions of all time, "men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth," and history records "the tragic fact that men have gone to war and cut each others' throats because they could not agree as to what was to become of them after their throats were cut."

The men and women who gave freedom to America were devout souls. They had learned some of the sorrowful facts of the spiritual life of man in the bitter crucible of experience. Most of them dissented from the doctrines and usages of the churches established by law in the lands of their origins. They were denied the right to worship God in their own ways. They were compelled to pay tithes for the support and propagation of religious opinions which they disbelieved. They had their marriages annulled and their children adjudged illegitimate for daring to speak their marriage vows before ministers of their own faiths rather than before clergymen of the established churches.

But these cruel oppressions merely steeled their convictions that religion is a private matter between man and his God; that no human authority should undertake to control or interfere with the rights of conscience; and that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical."

For these reasons, our ancestors staked the very existence of America as a free nation upon the principle that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences," and the corollary that this natural and unalienable right can be secured only by keeping the hands of the state out of religion and the hands of religion off the state.

INTELLECTUAL FREEDOM

While I divide freedom into parts for ease of discussion, the indivisibleness of freedom becomes manifest when we realize that intellectual freedom is inextricably intertwined with political and religious freedom, and that the full enjoyment of political, religious, and intellectual freedom is dependent upon economic freedom.

The greatest exponent of intellectual freedom among the men and women who made America a living reality was Thomas Jefferson, who said: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

His contemporaries shared Jefferson's abhorrence of tyranny over the mind, and for this reason they adopted the First Amendment. When this amendment is read in conjunction with the Due Process Clause of the Fourteenth Amendment, it compels the governments of the states as well as the federal government to extend to every human being within our borders these intellectual, political, and religious freedoms:

1. Freedom to think whatever he pleases.

2. Freedom to speak and publish his thoughts with impunity, provided what he says or publishes is not obscene and does not falsely slander or libel another, or tend to obstruct the courts in their administration of justice, or create a clear and present danger that it will incite others to commit crimes.

3. Freedom to associate with others to accomplish any lawful objective.

4. Freedom to meet peaceably with others for consultation and protest, and to petition those invested with powers of government for redress of grievances, real or imagined.

5. Freedom to entertain such religious beliefs as appeal to his conscience, to practice his religious beliefs in any form of worship not injurious to the rights of others, to endeavor by peaceful persuasion to convert others to his religious beliefs, and to be exempt from taxation for the support of any institution which teaches religion of any character.

These freedoms are exercisable by fools as well as by wise men, by agnostics or atheists as well as by the devout, by those who defy our Constitution and laws as well as by those who conform to them, and by those who hate our country as well as by those who love it.

We cannot overmagnify the value of these freedoms. This is so because they are the fundamental freedoms which make it possible for America to endure as a free society.

To be sure, the exercise of these freedoms may require us to put up with a lot of intellectual rubbish. But our country has nothing to fear from them, however much they may be abused, as long as it leaves truth free to combat error.

DUTY TO PRESERVE FREEDOM

Freedom is hard to acquire or retain, but easy to lose.

Freedom is certainly not free. Our freedom was bought for us by the blood, sweat, tears, and prayers of men and women past numbering.

As the preamble to the Constitution indicates, the most solemn obligation resting upon us is to preserve freedom for ourselves and our posterity.

This we must do if we and future generations of Americans are to enjoy its blessings. As Thomas Paine declared in Revolutionary Days, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

This is necessarily so because God grants freedom only to those who love it and are always ready to guard and defend it. The brave men and women who made the America we love dedicated it to the proposition that men "are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness."

Having done this, they bequeathed America to us in trust for ourselves and our children and our children's children with knowledge of the unhappy truth that the conflict between tyranny and freedom never ceases, and that freedom always stands in peril at the hands of those forces which seek to dominate the lives of others.

To aid us in preserving freedom, they warned us that eternal vigilance is the price of freedom, and that we must recur to fundamental principles frequently to save it.

DEFEATS OF FREEDOM

During recent years, the conflict between tyranny and freedom has intensified; and freedom is suffering many defeats.

I will specify what I conceive to be a few of them. In so doing, I will undoubtedly offend powerful special interest groups which are not averse to destroying the freedom of others to achieve their special objectives.

I realize, moreover, that many sincere persons having no axes to grind may disagree with some of my specific observations. I freely accord to them their freedom to differ with me.

By concentrating ever-expanding power in itself, the federal government is substantially robbing the states and their political subdivisions of their right to regulate local and personal activities within their borders, and individuals of their freedom to contract with respect to their commercial and personal affairs and their private property.

By collecting and storing personal data concerning individuals for which it has no legitimate need, by placing under covert and overt surveillance individuals who dissent from its policies, and by branding the members of organizations obnoxious to it as intellectually or politically dangerous to the established order, the federal government is invading the privacy of individuals, and discouraging them to exercise their First Amendment rights to freedom of thought, speech, and the press, and their First Amendment right to freedom of association, and their First Amendment rights peaceably to assemble and to petition government for redress of grievances.

By extravagant expenditures for domestic and foreign programs past numbering financed in part by exorbitant taxes and in part by unprincipled deficit financing, the federal government is confiscating an inordinate proportion of the fruits of the labors of the people, destroying the value of their past savings and the purchasing power of the earnings it permits them to retain, and mortgaging their economic future and that of their children.

By adopting "no-knock" laws and claiming for the President as an inherent power the authority denied him by the Fourth Amendment, the federal government is subjecting the persons, houses, papers, and effects of the people to unreasonable searches and seizures.

By adopting a preventive detention law for the District of Columbia, the federal government is denying persons allegedly committing non-capital crimes in the District a right the people of the United States have enjoyed since 1789, i.e., the right to release on bail pending trial, and imprisoning them merely because a judge fears they may commit crimes in the future if they are released on bail.

By sanctioning compulsory unionism, the Federal government is enpowering unions in practical effect to compel those who labor to become and remain members of unions as conditions of employment and to participate in strikes they deem unjust under pain of severe union-inflicted fines.

By denying children the right to attend their neighborhood school and requiring them to be bused to and fro to mix them racially in schools in undefined proportions pleasing to bureaucrats and judges, the federal government is making children of all races the hapless and helpless pawns of bureaucratic and judicial tyranny.

By demanding that all Americans be taxed to support educational institutions maintained by churches to teach their religious beliefs, federal officials are imperiling the right of every American to be exempt from taxation to finance a violation of the Establishment and Freedom of Worship clauses of the First Amendment.

CONCLUSION

What I have been trying to say about freedom was much better expressed by one of its foremost champions, Rudyard Kipling, in his stirring poem entitled "The Old Issue." I quote his words:

"All we have of freedom, all we use or know
This our fathers bought for us long and long ago.

Ancient right unnoticed as the breath we draw
Leave to live by no man's leave, underneath the law.

Lance and torch and tumult, steel and grey-goose wing,
Wrenched it, inch and ell and all, slowly from the King.

Till our fathers 'stablished, after bloody years,
How our King is one with us, first among his peers.

So they bought us freedom—not at little cost—
Wherefore must we watch the King, lest our gain be lost."

In closing, I assert that the freedom of the individual is life's most precious value. If it is to endure in our land, we must renew our love for it, exercise eternal vigilance, recur frequently to fundamental principles, and make manifest our determination to guard and defend it, cost what it may.

THE NEED FOR EFFECTIVE CRIME PREVENTION LEGISLATION

Mr. PERCY. Mr. President, in recent weeks, there have been a series of shocking and vicious murders in the Chicago area. These crimes have numbed the community because the victims were mostly youngsters who had a whole life to look forward to, but who had their future abruptly and cruelly taken from them.

Law enforcement experts speculate that although there may be several causes for these murders, one fact which stands out is that many of them were committed by people who had been previously arrested, tried, convicted and sent to a "correctional" institutions. As Mr. Harvey Johnson, acting director of the Chicago Crime Commission said—

Many of the offenders have prior police records and have often spent time in correctional institutions. Obviously they haven't been corrected or they wouldn't be repeating their crimes.

This is a very telling point, because nationally, it is estimated that 80 percent of all crimes are committed by people who have previously been in correctional institutions.

Mr. President, this seems to me to be convincing evidence of the need for new programs which can reverse the present trend so that once a man comes out of prison, it would be the exception rather than the rule that he returns to a life of crime.

There are programs which have demonstrated that this is not just a hopeless pipedream. The PACE program in Chicago, the Manhattan Court Employment Project in New York, and many others which I have discussed before on the floor present dramatic proof that correctional programs and institutions can "correct" if given a chance. It was for these reasons that I introduced S. 3185 and S. 3922. Both of these bills offer the hope that offenders who pass through our criminal justice system will no longer be a threat to the community. The first restructures the entire criminal justice system; the second provides for a new approach to vocational training for inmates.

When someone asks why I am involved in prison reform, I could give them many answers. But perhaps none could be more dramatic than showing them the article published in the Chicago Daily News on the weekend of September 16 and 17. That article describes with poignant accuracy the point I have been trying to make. By reforming and reorganizing our entire criminal justice system, crimes such as those which are outlined in the article will become fewer. By cleaning up our criminal justice system so that it actually works, we will have gone a long way toward reversing the fact that 80 percent of all crimes are committed by ex-offenders. For the protection of society from the type of madness which the article relates, the Congress needs to act forcefully and immediately.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

SURGE OF VICIOUS MURDERS SPURS THE QUESTION: WHY?

(By Edmund J. Rooney and Phillip J. O'Connor)

The Chicago area has been hit by a wave of vicious murders of children and young people in the last few months and officials give varying opinions on why the violence has occurred here.

Victims have ranged in age down to 18-month-old Renee Flanagan, who was found slain last Monday in a church parking lot in Mount Prospect with her mother. Both victims had been sexually molested.

Some of the slayings were multiple killings, including the slaying of a young woman and three others in posh Barrington Hills and the murder of three persons near Monee.

The shocking series of slayings has included several in what are generally considered "safe" areas, such as a tranquil gravel road west of Carol Stream.

The commander of the Chicago police homicide unit, William Keating, said "There has been a rash of what we call felony murders. These are murders in which a felony—such as robbery or rape—is committed before the murder itself.

"I don't know the reason for the increase in felony murders. However I do believe that if the death penalty was enforced in murder cases, it would be a deterrent.

"By this I mean that the death penalty should be carried out within a reasonable time, not have a convicted slayer sitting around for up to 12 years."

Keating said that over the years about 65 percent of Chicago's murders have been what he calls "crimes of passion." Keating said that by this he means there was some relationship between the killer and his victim prior to the slaying.

Coroner Andrew J. Toman said he believes violent television shows and movies are partly responsive for some of the shocking murders.

Deputy Coroner George Parker, who has offices in the Cook County Morgue, said, "We are seeing the bodies of a lot more children than we used to."

Harvey Johnson, operating director of the Chicago Crime Commission, said that there can be a variety of reasons why a person will commit what Keating refers to as felony murders.

"It can occur during a theft to buy narcotics, or sometimes it can be mere robbery for robbery's sake that develops into murder," Johnson said. "Many of the offenders have prior police records and have often spent time in correctional institutions. Obviously they haven't been corrected or they wouldn't be repeating their crimes."

Easy availability of guns also is a factor in the number of murders, Johnson added. Richard J. Elrod said:

"I'm shocked and dismayed at the recent upsurge of child murders and related crimes. Everything in the capacity of law enforcement should be done to prevent these types of crimes. All officials, regardless of jurisdictions, should work together to apprehend the individuals responsible.

We've found that people from low socio-economic areas in the city go into more prosperous areas where they can steal things of higher value.

Chicago police said that surprisingly there have been fewer murders so far in 1972 than last year. Homicide investigators said that 500 persons have been murdered in the city so far this year, compared to 586 at this time a year ago.

Last year, Chicago set an all-time record when the number of murders zoomed to 824.

The child murders have been among the most shocking.

Sally Kandel, 14, of 531 Mohican, Carol Stream, was found beaten to death in a cornfield on Lies Rd. just west of Carol Stream Wednesday morning.

Another bicyclist, Julie Kathleen Morecraft, 18, of 802 Ford, Elgin, was found beaten to death with a rock near Streamwood last June 22.

A 15-year-old Naperville girl, Julie Hanson, was found stabbed to death in a cornfield near Naperville July 9.

A 16-year-old Lemont girl, Janet Bossert, was found shot to death in a wooded area in Lemont last Oct. 30.

A La Grange youth, Alan Fredian Jr., 15, was found beaten to death near Lyons Twp. High School South last Oct. 16.

A 14-year-old South Side youth, Rodney Harris, 14, was found slain Aug. 25 in Evanston.

Also among the most grisly murders were the mass slaying of four Aug. 4 in the posh Barrington Hills home of retired insurance executive Paul M. Corbett, 67, who was slain along with three others.

The victims in the triple murder near Monee, which occurred Sept. 4, were Stephen Hawtree, 58, his wife, Judy, 53, and their son, Thomas, 17.

The PRESIDING OFFICER. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. SCOTT. Mr. President, I ask unanimous consent that the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs; the Committee on Labor and Public Welfare; the Committee on Agriculture and Forestry; the Committee on Commerce; and the Committee on Fi-

nance may be authorized to meet during the session of the Senate today.

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

Mr. MANSFIELD later in the day said: Mr. President, I ask unanimous consent that the Committee on Government Operations be authorized to meet during the session of the Senate today.

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

SENATE RESOLUTION 367 PLACED ON CALENDAR

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate, Senate Resolution 367, which the clerk will please read by title.

The second assistant legislative clerk read the resolution (S. Res. 367) by title, as follows:

A resolution to prohibit any notice of an increase in social security payments from referring to any individual who is a candidate for public elective office.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The time for the transaction of routine morning business has expired and morning business, therefore, is closed. Under a previous order the Senate must now proceed to the consideration of S. 3716. The resolution (S. 367), which has been laid before the Senate and has not yet been acted on even though the time for the morning hour has not expired, will be placed on the Calendar in accordance with rule XIV, paragraph 6, and the practices and precedents of the Senate in dispositions of resolutions going over under the rule.

HEALTH FACILITIES, MANPOWER, AND COMMUNITY MENTAL HEALTH CENTERS ACT OF 1972

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate, S. 3716, which the clerk will please state by title.

The second assistant legislative clerk read the bill by title, as follows:

A bill (S. 3716) to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower, and community mental health centers.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Health Facilities, Manpower, and Community Mental Health Centers Act of 1972".

PART A—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

EXTENSION OF ASSISTANCE UNDER TITLE VI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 2. Section 601 of such Act is amended to read as follows:

"SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

"(a) for the fiscal year ending June 30, 1973, and each of the next two fiscal years—

"(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) $100,000,000 for grants for the construction of public or other nonprofit outpatient facilities; and

"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

"(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $160,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(c) for grants for modernization of facilities referred to in paragraphs (a) and (b) $150,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(d) $100,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for grants for modernization of facilities referred to in paragraphs (a) and (b) which are—

"(1) located in metropolitan areas having a population of 500,000 or more persons, and

"(2) intended to serve a broadened population within such metropolitan area."

EXTENSION OF LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITAL AND OTHER MEDICAL FACILITIES

SEC. 3. (a)(1) Section 621(a)(1) of the Public Health Service Act is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(2) Paragraph (2) of such section is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(b) Section 622(b) of the Public Health Service Act is amended by striking out the phrase "ending before July 1, 1973."

(c) Section 631 of the Public Health Service Act is amended by striking out "1971." and inserting in lieu thereof "1973.".

(d)(1) The title of part C of title VI of the Public Health Service Act is amended to read as follows:

"PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS AND DEVELOPMENT OF AREA EMERGENCY MEDICAL SERVICES SYSTEMS"

(2) Section 633 of such Act is amended to read as follows:

"AUTHORIZATION

"SEC. 633. To assist in, improve, and expand the provision of adequate emergency medical services in the Nation for the treatment of accident victims, victims of sudden illness, and handling of other medical emergencies there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $150,000,000 for the fiscal year ending June 30, 1975, for special project grants and contracts for the planning and development or expansion of comprehensive area emergency medical services systems. Sums made available under this section may be used for construction, training and manpower development, communication, transportation, public education, coordination of services and facilities and other components necessary for the implementation of a plan submitted in accordance with section 635."

(3) Part C of such title is further amended by adding at the end thereof the following new sections:

"ELIGIBILITY FOR GRANTS AND CONTRACTS

"SEC. 634. Funds appropriated pursuant to this part shall be available for grants and contracts by the Secretary, after consultation with the National Emergency Medical Services Advisory Council established by section 638, and funds available for grants and contracts under section 633 shall be provided on a matching basis of up to 75 per centum in accordance with criteria of need as determined by the Secretary pursuant to regulations he shall prescribe, to States, political subdivisions, or regional arrangements, compacts, or consortiums comprising the governmental jurisdictions for at least those areas included in a standardized metropolitan statistical area (as determined by the Office of Management and Budget) in the case of programs to be carried out in such standardized metropolitan statistical areas, presenting a plan for the provision of comprehensive and coordinated emergency medical services for a geographical area which encompasses an area at least congruent with an areawide comprehensive health planning agency as established under section 314(b) of this Act or multiples of such area (unless the Secretary determines that such area cannot feasibly operate under a single plan in which event he may approve a plan submitted for a portion of such area), which plan must be approved by the Secretary and meet requirements consistent with the provisions of section 635 set forth in regulations prescribed by the Secretary.

"PLANS

"SEC. 635. Each plan submitted pursuant to section 634 must include the following—

"(a) reasonable assurance that there has been or will be established in or for the area with respect to which such grant is sought, an area emergency medical services planning council pursuant to the provisions of section 636;

"(b) proposals for programs (carried out in coordination with education and training programs assisted under titles III, VII, VIII, and IX of this Act and in a manner consistent with the appropriate provisions of such applicable title) for the training and continuing education of health professionals and paraprofessionals (with priority for the recruitment and training of veterans of the Armed Forces of the United States with training or experience in the health care field) in the provision of emergency medical services to victims of accident and sudden illness which programs must meet criteria established by the Secretary in regulations and, in the case of the training of paraprofessionals, must include supervised clinical training for at least one-half of the program;

"(c) provision for a communications system including, at least, a central, areawide communication network linked with other appropriate area, State, and national networks, and with maximum accessibility for the public through a universal emergency telephone number and other means, which system shall allow transmission of information by voice, telemetry, or other electronic method and shall provide for cross-frequency patching capability;

"(d) provision for an emergency medical services transportation system, which shall include such air borne and water borne transportation as is necessary to meet the individual characteristics of the area;

"(e) provision for the establishment of easily accessible, continuously operational

emergency medical service facilities in sufficient numbers and situated at strategic locations in the area to meet the emergency medical services needs of the area;

"(f) provision for emergency access to specialized critical medical care units in the area, including provision for the necessary transportation systems for such access, and, where such resources are nonexistent or inadequate in the area, for access to such units in a neighboring area where access is feasible in terms of time and distance;

"(g) assurance that necessary emergency medical services, to the maximum extent feasible, shall be provided to all patients requiring services and shall be provided without regard to, or prior inquiry as to, ability to pay;

"(h) provision for developing for submission for approval by the Secretary, within one year of receipt of funds under this part, a plan assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies;

"(i) provision for transfer to facilities and programs providing such followup care and vocational rehabilitation as is necessary to reflect the maximum recovery and restoration of the patient;

"(j) provision for a program of public education and information in the area served (taking into account the needs of visitors to the community to know or be able to learn immediately the means of obtaining emergency medical services), stressing appropriate methods of medical self-help;

"(k) provision for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area; and

"(l) provision for a standardized patient record-keeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient, from initial entry into the system through discharge from the emergency medical services system, and shall, to the maximum feasible extent, be consistent with ensuing patient records used in followup treatment and rehabilitation of the patient.

"AREA EMERGENCY MEDICAL SERVICES PLANNING COUNCIL

"SEC. 636. (a) The composition of the Area Emergency Medical Services Planning Council to be established in accordance with the plan submitted under section 635 shall include representatives of the State agency and appropriate areawide health planning agency or agencies (if any) established under section 314, of the regional medical program established under title IX of this Act in the area, of all public safety agencies having responsibilities within the area, of hospital councils, public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health or health education, of the local government or governments or units thereof exercising jurisdiction in the area, of uniformed services of the Federal Government operating installations in the area, of the Veterans' Administration medical facilities in the area, of communications networks, mass media, and public utilities, of firms, organizations, and other entities having responsibilities related to the provision of emergency medical services, and representatives of the general public who are not related to the provision of health care and who shall comprise at least one-third of the Council's voting membership.

"(b) The functions of such Council shall include development in consultation with the congruent areawide comprehensive health planning agency or agencies established pursuant to section 314(b), of the plan described in section 635(f) for areawide emergency medical services and shall include continuous monitoring and evaluation of the operation of the emergency medical service system with a view to making recommendations for the improved effectiveness of its operation.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 637. The Secretary shall establish an Interagency Technical Committee on Emergency Medical Services which shall be responsible for coordinating those aspects and resources of all Federal programs and activities relating to emergency medical services to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain the necessary coordination and effectiveness of such programs and activities. The Secretary or his designee shall serve as Chairman of the Committee, which shall include appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Academy of Sciences, the National Science Foundation, the Office of Science and Technology, the Federal Communications Commission, the Office of Emergency preparedness, and such other Federal agencies, and parts thereof (including components of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting emergency medical services functions and responsibilities.

"NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

"SEC. 638. (a) The Secretary shall establish a National Emergency Medical Services Advisory Council with which he shall consult on a continuing and regular basis in administering this part. The Council shall consist of the Secretary or his designee, who shall serve as Chairman, the Director of the National Institutes of Health, and the Administrator of the Health Services and Mental Health Administration in the Department of Health, Education, and Welfare, all other members of the Interagency Technical Committee established under section 637, and eighteen members appointed by the Secretary, nine of which appointed members shall be members of the general public who are related to the provision of emergency medical services, and nine shall be individuals experienced in the provision or development of, or the training of personnel to provide emergency medical services.

"(b) The functions of the Council shall be to review and advise the Secretary, through a subgroup which it shall appoint on applications received for grants and contracts under this part and to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"(c) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed after the effective date of this part, six shall be appointed for a term of four years, six shall be appointed for a term of three years, and six shall be appointed for a term of one year, as designated by the Secretary at the time of the appointment. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) A vacancy in the Council shall not affect its activities, and fifteen members of the Council shall constitute a quorum.

"(e) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"SEC. 639. (a) No application for a grant or contract under this part shall be approved unless—

"(1) the State comprehensive health planning agency established pursuant to section 314(a) and the areawide health planning agency established pursuant to section 314 (b) have had an opportunity to comment thereon, within ninety days of the submission to those agencies of copies of such application, and the applicant has submitted to the Secretary a reply to any such comments with a view toward accommodating any objectives by and remedying any differences with such agency or agencies.

"(2) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this part.

"PAYMENTS AND CONDITIONS

"SEC. 640. (a) Grants and contracts under this part shall be paid in advance or by way of reimbursement in such installments and on such conditions as in the judgment of the Secretary will best carry out the provisions of this part.

"(b) Nothing in this part shall limit or otherwise restrict the use of funds which are granted under other provisions of this Act or other Federal law and which are available for the conduct of medical emergency transportation and service programs from being used in connection with programs assisted through grants and contracts under this part where the former programs meet the standards and criteria established by the Secretary under this part.

"(c) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(d) No grants or contracts may be made under this part in support of an emergency medical service system except where all components of such system meet standards and criteria established in regulations by the Secretary after taking into account standards established by appropriate national professional or technical organizations.

"REPORTS

"SEC. 640A. The Secretary shall prepare and submit to the Congress, one year after enactment of this part and every year thereafter, a report on the administration of this part, which shall include an evaluation of the adequacy of the provision of emergency medical services throughout the Nation and the extent to which the needs for such services are being adequately met through assistance under this part and otherwise and his recommendation for any legislation necessary to promote the provision of and provide emergency medical services throughout the Nation at a level adequate to meet such needs."

STATE ALLOTMENTS

SEC. 4. Section 602(a) of the Public Health Service Act is amended to read as follows:

"SEC. 602. (a) (1) For each fiscal year beginning after June 30, 1973, the Secretary shall make allotments to each State from the sums appropriated under subparagraph (1), (2), or (3) of paragraph (a) or under subsection (b) of section 601 for grants for construction of respectively—

"(A) public or other nonprofit facilities for long-term care,

"(B) public or other nonprofit outpatient facilities,

"(C) public or other nonprofit rehabilitation facilities, and

"(D) public or other nonprofit hospitals

and public health centers. Each allotment shall be made on the basis of the population, the financial need, and the extent of the need for construction of facilities for which grants from the allotment are to be made of the respective States.

"(2) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States for grants for modernization of the facilities referred to in section 601. Such allotments shall be made from the sums appropriated under paragraphs (c) and (d) of section 601 and shall be made among the States on the basis of the population, the financial need, and the extent of the need for modernization of such facilities of the respective States.

"(3) If—

"(A) the allotment for any State under paragraphs (1) and (2) for any fiscal year for grants for construction or modernization of facilities described in any one of the clauses (A), (B), (C), and (D) of such paragraph is less than,

"(B) the amount of the allotment for grants for construction of facilities described in such clause for the fiscal year ending June 30, 1973, as computed under this subsection (as in effect prior to the date of the enactment of this paragraph) and subsection (b) (as in effect on and after such enactment) then such allotment shall be increased to that amount the total of the increase thereby required being derived by proportionately reducing the allotment to each of the remaining States under subsection (a) and the preceding paragraphs of this subsection for grants for construction of facilities described in such clause but with such adjustments as may be necessary to prevent any such allotment of any such remaining States from being thereby reduced to less than that amount.".

LOAN LIMITATIONS

SEC. 5. Part A of title VI of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 611. In any fiscal year no loan guarantee may be made under this part and no agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement which would cause the cumulative total of—

"(1) the principal of the loans guaranteed under this title in such fiscal year, and

"(2) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this title in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year."

REGIONAL MEDICAL PROGRAM

SEC. 6. (a) Section 902 of such title is amended by inserting "(including area health education and service centers)" immediately after "regional medical program" in subsection (a).

(b) Title IX of such Act is further amended by adding at the end thereof the following new section:

"AREA HEALTH EDUCATION AND SERVICE CENTERS

"SEC. 911. Notwithstanding limitations with regard to the diseases with which this title is concerned, the Secretary is authorized to make grants to and enter into contracts with regional medical programs for the purpose of developing area health education and service centers.".

(c) The title of title IX of the Public Health Service Act is amended to read as follows:

"TITLE IX—REGIONAL COOPERATIVE ARRANGEMENTS FOR EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATION TO IMPROVE HEALTH SERVICES AND MEDICAL CARE"

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this Act, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall remain available for obligation and expenditure until the end of such fiscal year.

CONTINUATION OF SUPPORT OF NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 8. (a) Section 305(a)(1)(H) of the Public Health Service Act is amended to read as follows:

"(H) a vital statistics system to include family formation, growth, and dissolution; and".

(b) Section 305(a)(2) of such Act is amended by inserting immediately before the period at the end of the first sentence the following: "; to set standards, to establish quality control systems, to develop uniform data collective forms, definitions, and procedures, and to provide technical assistance and training for the collection and compilation of such statistics".

(c) Section 305(b) of such Act is amended by adding at the end thereof the following new sentence: "Such system is to be implemented through contracts and grants in a continuing program of sharing costs with States and local governments to maintain data systems which collect and provide comparable data for national purposes."

(d) Section 305(d) of such Act is amended to read as follows:

"(d) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1973; and $35,000,000 for the fiscal year ending June 30, 1974".

CONTINUATION OF ASSISTANCE FOR ALLIED HEALTH PROFESSIONS

SEC. 9. (a) Section 791(a)(1) of the Public Health Service Act is amended to read as follows:

"SEC. 791. (a)(1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions or replacement or rehabilitation of existing facilities for such centers $40,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974;".

(b)(1) Subsection (a)(1) of section 792 of such Act is amended to read as follows:

"SEC. 792. (a)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974;".

(2) Subsection (b) of such section is amended to read as follows:

"(b) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves."

(3) Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for grants and contracts for special projects under this subsection."

(c) Section 793(a) of such Act is amended by striking out all of the first sentence through "1973" and inserting in lieu thereof the following:

"SEC. 793. (a) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974; to cover the costs of traineeships for the training of allied health professions personnel to teach health service technicians or in any of the allied health professions to serve in any of such positions in administrative or supervisory capacities or to serve in allied health professions specialties determined by the Secretary to require advanced training."

(d) Subsection (b) of section 794A of such Act is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this section there are authorized to be appropriated $1,250,000 for the fiscal year ending June 30, 1973; and $1,250,000 for the fiscal year ending June 30, 1974;".

(e) Subsection (f) of section 749B of such Act is amended to read as follows:

"(f) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974;".

(f) Subsection (e) of section 794C of such Act is amended to read as follows:

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $6,000,000 for the fiscal year ending June 30, 1974;".

(g) The first sentence of subsection (c) of section 794D of such Act is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1974, to continue or complete their education."

ALLIED HEALTH EDUCATION COST STUDY

SEC. 10. Section 797 of the Public Health Service Act is amended to read as follows:

"STUDY OF COSTS OF EDUCATING STUDENTS IN THE VARIOUS ALLIED HEALTH PROFESSIONS

"SEC. 797. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of the various allied health professions which lead to a certificate of degree or other appropriate evidence of completion of a course of training for practice in the various allied health professions.

"(2) Such studies shall be completed and an interim report thereon submitted not later than March 30, 1974, and a final report not later than January 1, 1975, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such studies shall develop methodologies for ascertaining the national average annual per student educational costs and shall, on such basis, determine such costs for school years 1972–1973, 1973–1974, and the estimated costs for school year 1974–1975 in the respective disciplines. The study shall also indicate the extent of variation among schools within the respective disciplines in their annual per student educational costs and the key factors affecting this variation.

The studies shall employ the most recent data available from the allied health professional schools in the country at the time of the study.

"(4) Such studies shall also describe national uniform standards for determining annual per student educational costs for each allied health professional school in future years and estimates of the cost to such schools of reporting according to these uniform standards.

"(5) The report shall also include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants under the Public Health Service Act to each allied health professional school.

"(b)(1) The Secretary shall request the Institute of Medicine of the National Academy of Sciences, to conduct such studies under an arrangement under which the actual expenses incurred by such Institute in conducting such studies will be paid by the Secretary. If the Institute of Medicine of the National Academy of Sciences, is willing to do so, the Secretary shall enter into such an arrangement with such Institute for the conduct of such studies.

"(2) If the Institute of Medicine of the National Academy of Sciences, is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (a)(2)."

SEX DISCRIMINATION

SEC. 11. Section 799A of part H, title VII of the Public Health Service Act is amended by adding at the end thereof the following new sentence: "This section shall not apply until July 1, 1978, in the case of a school of medicine which has begun the process of changing from being an institution which admits only female students to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 12. Sections 767, 768, 769, 769A, and 769B (added by section 107 of Public Law 92-157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

PART B—AMENDMENT TO THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT

COMMUNITY MENTAL HEALTH CENTERS

SEC. 13. (a) Section 201 of the Community Mental Health Centers Construction Act is amended to read as follows:

"SEC. 201. There are authorized to be appropriated for grants for facilities of public and other nonprofit community mental health centers under this title $100,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 207 of such Act is amended to read as follows:

"SEC. 207. No grant may be made under any provision of the Public Health Service Act for any fiscal year, for construction of any facility described in this title unless the Secretary determines that funds are not available, under this title to make a grant for the construction of such facility.".

(c) Section 224(a) of such Act is amended to read as follows: "There are hereby authorized to be appropriated to enable the Secretary to make initial grants to community mental health centers, under the provisions of this part, $60,000,000 for the fiscal year ending June 30, 1973; $90,000,000 for the fiscal year ending June 30, 1974; and $100,000,000 for the fiscal year ending June 30, 1975. For the fiscal year ending June 30, 1973, and each of the thirteen succeeding fiscal years there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant by the year for which sums are being appropriated under this sentence.".

(d) Section 246 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(e) Section 247(d) of such Act is amended to read as follows:

"(d) To carry out the purposes of this section there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $60,000,000 for the fiscal year ending June 30, 1974; and $60,000,000 for the fiscal year ending June 30, 1975."

(f) Section 252 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(g) Section 253(d) of such Act is amended to read as follows:

"(d) To carry out the provisions of this section there are authorized to be appropriated $14,000,000 for the fiscal year ending June 30, 1973; $14,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975.".

(h)(1) Section 261(a) of such Act is amended by inserting after "June 30, 1973," the following: "$90,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975,".

(2) Section 261(b) of such Act is amended by striking the word "nine" and inserting in lieu thereof "fifteen" and by striking "1973" and inserting in lieu thereof "1975".

(i) Section 271(d) of such Act is amended to read as follows:

"(d)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $45,000,000 for the fiscal year ending June 30, 1974; and $55,000,000 for the fiscal year ending June 30, 1975; for grants under this part for facilities and for initial grants under this part and for training and evaluation under section 272.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next twelve fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which grants for operating costs were made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975."

(j) Section 256(e) of such Act is amended to read as follows:

"(e) There are authorized to be appropriated to carry out this section $60,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975;".

(k)(1) Section 220(b) is amended by striking in paragraph (1) the word "eight" and inserting in lieu thereof "twelve" and by striking the word "four" and inserting in lieu thereof "eight".

(2) Paragraph (2) of such subsection is amended by striking the word "three" immediately after the word "next" and inserting in lieu thereof "seven".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(3) In any year where funds appropriated do not reach the level required to fully fund applications for assistance under paragraphs (1) and (2), the Secretary shall distribute the funds available as follows: 30 per centum for applicants under paragraph (1) and 70 per centum for applicants under paragraph (2)."

(l)(1) Section 220(a) of such Act is amended by striking the words "of professional and technical personnel" and inserting in lieu thereof the words "for operational costs".

(2) The caption for part B of such Act is amended to read as follows:

"PART B—GRANTS FOR INITIAL COSTS OF OPERATION OF CENTERS"

(m) Section 220 of such Act is further amended by adding at the end thereof the following:

"(d) Notwithstanding subsection (b) of this section, the Secretary may make additional grants to each center equal to 5 per centum of such costs, which maintains a bona fide program under this section or parts C, D, F, and G, for each such program. In no case shall grants exceed 100 per centum of such costs for any project."

(n) Section 221(a) of such Act is amended by adding immediately after paragraph (5) the following new paragraphs:

"(6) the services to be provided by the center are made available to any health maintenance or health service organization if in the catchment area for such center;

"(7) such center has a program whereby it screens, and where practicable provides treatment for, persons within its catchment area, who may be admitted to a State mental health facility;

"(8) such center has a program for the followup care of persons within its catchment area, who are discharged from a State mental health facility."

(o) Part B of such Act is amended by adding at the end thereof the following new section:

"GRANTS FOR CONSULTATION SERVICES

"SEC. 225. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, and other persons with drug abuse and drug dependence problems, or facility for mental health of children, to which a grant under part B, C, D, F, or G, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1972, to assist it in meeting a portion of the operating costs the Secretary may, with respect to such center or facility, make a grant under this section for consultation services in addition to such other operating grants for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection may not exceed 100 percent of such costs.

"(c) For the purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975."

MENTAL HEALTH OF THE ELDERLY

SEC. 14. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE ELDERLY

"GRANTS FOR TREATMENT FACILITIES

"SEC. 281. (a) Grants from appropriations under section 282(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of facilities to provide mental health services for the elderly within the States, and (2) to assist them in meeting a portion of the operating costs (determined pursuant to regulations of the Secretary) of a facility for mental health of the elderly assisted with a grant made under part A or this part or for the operation of new services for mental health of the elderly in an existing facility.

"(b)(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least

those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the elderly.

"(2) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(3) The grant program for costs of operating facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 70 per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for operating costs may not exceed the percentages of such costs, and may be made only for the periods prescribed for grants for such costs under section 242.

"(d)(1) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975, for grants under this part for facilities and for initial grants under this part for the operating expenses and for training and evaluation grants under section 282.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the next twelve fiscal years, such sums as may be necessary to continue to make grants with respect to any project under this part for which an operating grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975.

"TRAINING AND EVALUATION

"SEC. 282. The Secretary is authorized, during the period beginning July 1, 1973, and ending with the close of June 30, 1975, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provisions of services for the mental health of the elderly; or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the elderly within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

The PRESIDING OFFICER (Mr. MANSFIELD). What is the wish of the Senate?

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is the time to come from the Senator's time, or is it not to be charged?

Mr. SCOTT. Mr. President, I ask unanimous consent that the time not be charged to either side on the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant administrative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that both majority and minority members of the Senate Health Subcommittee staff be permitted the privilege of the floor during the course of the consideration of three health measures.

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

How much time does the Senator from Massachusetts yield himself?

Mr. KENNEDY. Mr. President, I understand there is a limitation of 20 minutes on the bill.

The PRESIDING OFFICER. Thirty minutes on the bill and 20 minutes on each amendment, except for amendments having to deal with the Hill-Burton Act, which are of 1 hour's duration.

Mr. KENNEDY. I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, the legislative extensions of the Public Health Service Act contained in the committee's bill, Mr. President, were first introduced into the Senate as title V of S. 3327, the Health Maintenance Organization and Resources Development Act of 1972. Hearings on those extensions were held as a part of the committee's overall hearings on S. 3327.

In that respect a myriad of interested associations and individuals testified in support of the prompt extension of the Hill-Burton, community mental health centers, and allied health training programs. Except for the administration, which declined to testify, those who urged prompt legislative extensions of these authorities, so as to avert a monumental legislative logjam next year—which grows out of the fact more than a dozen high-priority PHS authorities expire on the same day—are as follows: The American Hospital Association, the American Nursing Home Association, the American Dental Association, the American Public Health Association, the Association of Schools of the Allied Health Professions, the Association of State and Territorial Health Officers, the Comprehensive Health Planning Agency of Missouri, the American Nurses Association, the American Dental Assistants Association, the Association of Dental Hygienists, the American Association of Dental Schools, the California School of Dentistry at the University of Southern California, the American Psychiatric Association, the National Association for Mental Health, the Committee Against Mental Illness, and the National Council of Community Mental Health Centers.

With respect to the administration's refusal to present testimony to the committee, it is insightful to recount the legislative history with regard to the Hill-Burton hospital construction program.

The Hill-Burton program was last extended by the Congress in 1970. At that time the bill reported to the Senate from this committee amended the allotment formula for the allocation of construction funds among the States so as to remove the provision which enabled the States with the lowest per capita income to receive a disproportionately higher share of the Federal funds—a provision which had resulted in the construction of substantial numbers of hospitals in those States, in some cases too many hospitals. That provision was modified on the Senate floor and was subsequently lost in conference with the House. At that time the conferees agreed to require the Secretary of Health, Education, and Welfare to conduct a study in respect to the allotment formula. Public Law 91–296 provided:

(c) The Secretary of Health, Education, and Welfare shall conduct a study of the effects of the formula specified in section 602(a)(1) of the Public Health Service Act for allotment among the States of sums appropriated for construction of health facilities, and shall report to the Congress on May 15, 1972, the result of such study, together with recommendations for such changes, if any, in such formula as he may determine to be desirable, together with his justification for any changes so recommended. (Page 147 of compilation of selected public health laws.)

I ask unanimous consent, Mr. President, to have printed in the RECORD several letters from the committee to the Secretary of Health, Education, and Welfare, Mr. Richardson, and his responses thereto.

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

HON. ELLIOT RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: As Chairman of the Senate Health Subcommittee and as ranking minority member of the Senate Committee on Labor and Public Welfare, we are extremely interested in evaluating the report to the Congress which was required by section 103(d) of Public Law 91–296 in respect to the effects of the formula specified in section 201(a)(1) of the Public Health Service Act for allotment among the States of sums provided for the construction of health facilities.

As I am sure you remember, the requirement for this report was agreed upon by the Senate-House conference committee on the most recent extension of the Hill-Burton hospital construction program. That report was to be available to the Congress on May 15, 1972, and we had hoped that the Department would make the results of it, along with any recommendations for changes in the formula, available to the Subcommittee at the public hearing which our Committee held today in respect to extending and improving title VI of the Public Health Service Act. Since the Department was not in a position to accept the Committee's invitation to testify today in respect to these health programs, we are especially anxious to promptly receive copies of this important report.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Health.
JACOB K. JAVITS,
Ranking Minority Member, Committee on Labor and Public Welfare.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 8, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of May 17, signed also by Senator Javits, requesting copies of the report to the Congress required by Section 103(c) of Public Law 91-296, to study the effects of the formula utilized in allotting grants to States.

It is regrettable that this report was not available to the Congress on May 15; however, we are working on its preparation and you may expect it the early part of July. You may be assured that I share your concern about this important health program, and apologize for the delay of the report.

With best regards,

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 26, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: This is just a note to let you know that I have not forgotten your letter of May 17, signed also by Senator Javits, about the availability of the report to the Congress required by Section 103(c) of Public Law 91-296, to study the effects of the formula utilized in allotting grants to States.

As you will recall, in my letter of June 8 we anticipated that the report would be available early in July. However, in coordinating the final review of the report, other program considerations became apparent which must be taken into account.

You may be sure I will be in touch with you again as soon as there has been time to evaluate these issues thoroughly.

With kindest regards.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

[Telegram—Hand delivered]

MAY 11, 1972.

Hon. ELLIOT RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.:

This confirms our invitation to you to testify before the Senate Health Subcommittee on title V of S. 3327, the HMO legislation. Hearing commences 9:30 AM in Room 6226 NSOB on Wednesday, May 17, 1972.

We specifically request the presence of Dr. Marston, Director of the NIH; Dr. Endicott, Director, Bureau of Health Manpower Education; Mr. Hatch, Director, Division of Allied Health Manpower; Dr. Wilson, Administrator of HSMHA; Dr. Brown, Deputy Administrator for Mental Health; and Dr. Granning, Director of the Hill-Burton Program. The Committee considers their testimony essential to the legislation now pending before the Committee.

Please submit 75 copies of your written statement not later than 24 hours in advance of the hearing to 4226 NSOB.

EDWARD M. KENNEDY,
Chairman, Subcommittee on Health.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 16, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: This will confirm receipt of your telegram on May 11, 1972, requesting the Department to testify on May 17 on Title V of S. 3327, the Health Maintenance Organization and Resources Development Act of 1972.

Title V would extend indefinitely six major health services and training authorities which would otherwise expire at the end of Fiscal Year 1973. These authorities are those for: (1) Partnership for Health (section 314 of the Public Health Service Act), (2) the Hill-Burton Program, (3) Regional Medical Programs, (4) Allied Health Professions Training, (5) Community Mental Health Centers, and (6) Health Services Research and Development (section 304 of the Public Health Service Act). As I indicated in my testimony on S. 3327 before the Health Subcommittee on April 24, we are aware that these and several other Public Health Service authorities expire at the end of FY 1973. However, all these authorities are major components of the Department's health program and it is our preference to be able to address them all comprehensively on the basis of information we are currently analyzing in our planning, budget and legislative review process.

At the present time, our planning process is not sufficiently advanced to a point which would permit us to testify on May 17 on these expiring authorities. Moreover, it is our hope that your Subcommittee would be able to complete action on the pending HMO legislation before beginning consideration of legislation expiring at the end of FY 1973.

We share with the Congress the desire to consider these expiring authorities well in advance of June 30, 1973. Mr. Stephen Kurzman, Assistant Secretary for Legislation, and Dr. John S. Zapp, Deputy Assistant Secretary for Legislation (Health), would be willing to meet with the Subcommittee staff to explore a schedule for legislative hearings on these authorities which would allow ample time for careful Congressional consideration.

With kindest regards,

Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. KENNEDY. Mr. President, this bill also authorizes a 1-year extension of the Allied Health Training Act.

Federal legislation authorizing the support for training of allied health professions personnel was initially enacted on November 3, 1966, through the Allied Health Professions Personnel Training Act (Public Law 89-751). That law was enacted in recognition of the increasing importance of allied health personnel to the provision of health services.

The initial legislation authorized four types of assistance to "training centers for allied health professions":

First. Grants for construction of teaching facilities;

Second. Formula and special improvement grants for improvement of educational programs;

Third. Grants for advanced traineeships for allied health personnel preparing to become teachers, administrators, supervisors, or allied health specialists; and

Fourth. Grants for development of new methods—specifically for development of new types of health personnel.

Title III of the Health Manpower Act of 1968 (Public Law 90-490) extended the allied health legislation for 1 year—through June 30, 1970—and broadened the authority for the developmental grants. It also required the Secretary of Health, Education, and Welfare to submit to the President and the Congress a report on the administration appraisal of the programs thereunder in light of their adequacy to meet the needs for allied health professions personnel, together with his recommendations. In April 1969, that report was submitted to the Congress. Among other things, the report identified the major allied health manpower education and training needs.

The act was further extended for 3 years by the Health Training Improvement Act of 1970, Public Law 91-519, approved November 2, 1970, which also significantly broadened the provisions both as regards the purposes for which support is authorized and the scope of entities eligible to participate in the programs.

Thus the current authorities, which are due to expire June 30, 1973, and which this bill would extend through June 30, 1974, include the following:

First. Grants to allied health training centers for construction of teaching facilities;

Second. Formula and special improvement grants to training centers for improvement of educational programs;

Third. Special projects—grants and contracts—for experimentation, demonstration, and institutional improvement;

Fourth. Traineeships for advanced training of allied health professions personnel preparing to serve as teachers, administrators, or allied health specialists;

Fifth. Grants and contracts to encourage full utilization of educational talent for allied health professions;

Sixth. Scholarship grants, work-study programs, and loans for allied health students.

The legislation has made possible Federal assistance for the development and improvement of certain categories of educational programs in junior colleges, colleges, and universities, and their affiliated clinical facilities. According to data collected in recent surveys of allied health educational programs in junior and senior colleges, the growth in such programs has been substantial. In five medical allied health educational occupations receiving support—occupational therapy, physical therapy, medical, technology, medical laboratory assisting, and radiological technology—programs increased from about 700 in 1965 to nearly 1,000 in 1971—a 39-percent increase—and graduates from about 4,000 to more than 10,000—a 150-percent increase.

Support has been provided for the development of coordinating mechanisms such as organized groupings of allied health training programs in a single college or university and consortia or regional networks involving a number of educational and service institutions in a geographical area. Improved coordination of programs can prevent unnecessary duplication of faculty and facilities, promote training of individual allied health specialists to serve as members of a team, and allow students more easily to move from one type or level of training to another without having to repeat training in previously acquired knowledge or skills.

In North Carolina, for example, a statewide system is being developed to coordinate allied health professions educational programs in the junior colleges, colleges, and universities. The system will make it possible for students to move

easily and efficiently from entry level training to higher, more advanced levels, as well as otherwise contributing to more efficient and effective use of training resources.

Two projects in Connecticut, one in New Haven and one in Hartford, are integrating allied health training in high schools, vocational-technical schools, community colleges and universities for northern and southern Connecticut respectively. The development of guidance and counseling services and coordinated curriculums are among the objectives of these projects which are intended to encourage disadvantaged youths to pursue careers in the health field.

A type of consortium arrangement in dietetics and medical technology is being supported at Florida International University. This institution is coordinating its upper collegiate level program with the junior colleges to enable the students to build on their associate degree training to achieve the bachelor's degree.

Another purpose for which aid has been provided under the allied health training authorities is curriculum revision. Efforts to improve dietitic training are an example of how the Federal Government is working in partnership with private groups to achieve a desirable educational objective. Three projects are under way in different types of schools, in different parts of the country, to determine if it is possible to combine the academic and clinical portions of dietitic training, and thus shorten the total training time. Two of the three projects are supported under the allied health training program.

In the area of curriculum development, special attention has been given to the development and evaluation of curriculums for new types of allied health personnel. Under the recently enacted Nurse Training Act of 1971, encouragement is being given to efforts to prepare nurse practitioners; and the Comprehensive Health Manpower Training Act of 1971 gives special incentives to medical and dental schools preparing physician assistants and dental therapists. Under the allied health training authorities, encouragement is given to other institutions to support this type of training and also the training of a variety of other new types of personnel, among them the physical therapy assistant, the hospital pharmacy technician, and the occupational therapy assistant.

Assistance is being given under the allied health training authorities for the development of proficiency and equivalency tests to give appropriate recognition to previously acquired skill and knowledge, such that persons who do not have all the formal credentials may be admitted into the health delivery system. The Educational Testing Service has received aid in the development of equivalency tests for five courses in medical technology. Support has been provided for the development of a proficiency test for physical therapy assistance by the Professional Examination Service, in cooperation with the American Physical Therapy Association. Progress also is being made in the development of proficiency tests in the occupational therapy and radiologic technology fields.

Improved mechanisms for recognizing skills and knowledge without regard for where the learning occurred are particularly needed to permit discharged veterans with health training and experience to make a smooth transition into work in the civilian health field. The MEDIHC—military experience directed into health careers—program being supported under the allied health training legislation has been making outstanding progress in assisting veterans to move into civilian health jobs. In fiscal year 1972, more than 3,000 veterans were placed in health related jobs, and 1,700 were placed in training programs.

Traineeships provided under the allied health training program are helping to meet the need for teachers and persons with specialized administrative and supervisory skills for the allied health professions. Since the traineeship program was initiated in 1967, it has grown from supporting 64 trainees to about 700 this past year. In addition, a program of training institutes grants initiated in 1971 has provided assistance to about 4,000 trainees to obtain the benefits of specialized training in programs of less than a full academic year.

The revisions in the allied health training authorities effected by the Health Training Improvement Act of 1970 significantly broadened the provisions as regards both the purposes for which support is authorized and the scope of entities eligible to participate in the program. The 1970 act was not passed until November 20, 1970, which was well into fiscal year 1971. The provisions of the act have been in force little more than a year, and their full impact is yet to be realized.

This bill will assist in that realization.

Mr. President, S. 3716 also includes a 2-year extension of the provisions in existing law which authorize the development of community mental health centers.

Mental illness and related problems have caused, and continue to cause, untold suffering for the American people. Mounting evidence that comprehensive treatment within their home communities helps the mentally ill to recover more quickly and more completely spurred the Congress to establish the community mental health center program in 1963. The centers have since become the keystone of Federal efforts to meet the needs of as many as 40 million Americans who require care for a wide variety of emotional, behavioral, or social disorders.

This initiative reflects a new philosophy of treatment, an attempt to rationalize the broken, scattered pattern mental health services. To make sense out of the fragmented system and to give more Americans access to the help they need, the new program has had to break down a host of traditional system barriers that have compounded the difficulties inherent in establishing and running an ambitious and untried program.

Although the centers are still new, their successes already prove them to be both an effective and a humane, though not complete, approach to providing the kind of services people need.

One major impact has been the reduction in reliance upon State mental hospitals. The availability of centers as a comprehensive, community-based alternative has enabled thousands of people to take advantage of new drug treatment methods and changing public attitudes, and to return to their homes and communities while still receiving the treatment they need. People living in a geographical area served by a center that has been operating for at least 3 years have only half as much chance of being in a State mental hospital as do people in comparable areas not covered by a CMHC. And when all 476 of the centers which have so far received grants are operating, comprehensive mental health services will be available to 71 million Americans.

Statistics showing that 372,000 people received direct care at CMHC's in 1969, and 518,000 in 1970, testify to the magnitude of the need. Growing public acceptance has been documented both by increasing visits to centers and by recent public opinion polls.

The National Association for Mental Health has now declared a "National Commitment for Mental Health," designed to prevent mental illness, to improve treatment for the mentally ill, and to increase public understanding of mental health. This campaign is receiving strong, bipartisan support.

The time is ripe for firmly establishing the community mental health center not only as an accepted and valued resource for those with mental health problems, but as a model for comprehensive, integrated systems of health and human services. It is imperative that we maintain the momentum by extending legislative authority for the CMHC program. CMHC's are still new, and further improvements are needed to fulfill both of these potential roles. The recent report of the Center for Study of Responsive Law, among other studies, has pointed up some of the deficiencies. As in 1965, 1967, 1968, and 1970, we in the Congress are continuing the effort to respond flexibly to experience.

Some of the new revisions concern technical, operational changes to enable centers to better perform the tasks we have given them. The emphasis in support until now has been, effectively, on constructing new facilities; but we have found that most of the truly innovative programs have used existing buildings, such as storefronts or church basements. To encourage greater use of construction funds for purchase and renovation, the committee proposes that we change the terminology to provide for facility grants and give preference to such grant applications whenever purchase and renovation are feasible.

Along similar lines, part B of the law currently provides staffing grants for the salaries of professional and technical personnel. As in 1969, the committee recommends that centers, like other Federal programs, receive operating grants for part of all necessary operational costs. Only in this way can centers meet the rising costs for rent, phone calls, and travel, the latter two particularly heavy in rural catchment areas.

Also in the financial realm, we find that it is necessary to extend Federal

support through the 12th year of center operation. The original plan was to phase out Federal funding of each center and replace it with locally generated support, and much has been accomplished to this end. State and local governments, patient fees, third party payments, fund raising, and philanthrophy now account for 77 percent of center revenues. But experience indicates that local and State funds alone are not sufficient to support the centers. This is especially true in poverty catchment areas. The extension of Federal support to 12 years is the only way to enable the centers to fulfill their potential, until the passage of comprehensive national health insurance.

But aside from these nuts and bolts issues, the committee sees an urgent need to strengthen the double linkage role of CMHC's. One part of this role relates to the CMHC's place within the existing system of mental health, general health, and human services. In order to avoid duplication, and to insure ready access to all services, true cooperation is needed among all existing human care systems. The CMHC will have the opportunity to illustrate the benefits and workability of such integration in three principal ways.

The bill requires that centers screen all catchment area residents who might be placed in State mental hospitals and, further, that they provide followup care for all catchment area residents discharged from a State facility. This will insure that people will neither be warehoused in large State institutions nor discharged to new warehousing in a nursing or foster care home, and that State hospitals will be used in the cases in which they are most appropriate. The bill also encourages CMHC's to provide a wide range of consultation to other institutions and programs throughout the social, educational, and health domains. By now including these grants under operational grants, we hope to stimulate one of the most basic services a CMHC can provide—that of prevention. Finally, in order to insure linkages with the developing modes of health care, the bill requires that centers make their services available to any health maintenance or health services organization serving its catchment area.

The second part of the linkage role occurs within the CMHC itself in relation to high-need population groups. In addition to the five essential mental health services each center must provide, parts C and D were added previously to the act to meet the special needs of alcoholics and drug abusers. Both of these important programs are now to be extended and expanded.

Two age groups in our population often come out on the short end of services. Part F recognized the need for specialized children's services, incorporating a wide range of preventive and outreach efforts and developing innovative approaches to the coordination of health, social, and other human services for children. The priority of this need is underlined by statistics showing increasing numbers and percentages of children in State mental institutions. The bill renews grant authority for specialized children's programs and increases the available funds.

At the other end of the age spectrum, the elderly, too, are often shortchanged. The tragic situation where many elderly persons find themselves unnecessarily confined to institutions, because there is no adequate community care is completely contrary to the purposes of the Community Mental Health Centers Act. Although virtually all CMHC's provide some services to the aged, only through specialized programs can we insure that these people will never again be overlooked. In a new part G, the bill authorizes center programs targeted at the problems of the elderly, analogous to current programs for alcoholics, drug abusers, and children.

These specialized programs reflect the philosophy underlying the whole CMHC movement—that is the need for comprehensive, integrated programs to combat problems. To encourage individual centers to take advantage of the special resources in the act, the committee recommends two mechanisms. First is an incentive grant, available to centers which provide specialized services for one of the groups identified for attention. And second, initiation and development grants can serve, particularly in poverty areas, as a vehicle both for encouraging the maximum possible cooperation between mental health and related services, and for insuring citizen participation in service planning and implementation.

With this legislation we have an opportunity, not to be missed, of strengthening a program that has already proved its worth and its potential as a provider of vital mental health services and as a model for future human services collaboration.

Mr. President, S. 3716, also contains a number of other important provisions which I want to briefly describe. The committee's bill contains a 1-year extension of the health statistics authority for HEW. The bill will permit HEW to implement its Federal-State-local health data system. For that purpose, as well as the other activities of the center, the bill authorizes a total of $35 million.

The bill also authorizes a special $300 million 3-year program to support emergency medical services throughout the Nation. In that regard, the bill will improve ambulance services, hospital emergency room services, and the training of skilled health professionals. As we know, Mr. President, about half of all heart attack victims who die, die before they ever receive any medical treatment. Clearly, there is a great deal that can be done—and should be done—to improve this situation.

Mr. President, I also wish to alert my colleagues that in order to expedite the conference with the House on expiring PHS legislation, I am proposing to amend the bill to add to it the provisions of four vital health bills which passed the Senate earlier this summer. These bills are: The medical libraries bill; the public health training bill; the migrant health bill; and the emergency health personnel bill. I am hopeful that their inclusion in S. 3716 will expedite action on them by the House-Senate conference committee.

Mr. President, this is an excellent bill. And I urge my colleagues on both sides of the aisle to support it. The bill was reported from the committee with broad bipartisan support, as were the other four measures I have just described. I want to compliment the ranking minority member of the full committee, the distinguished senior Senator from New York (Mr. JAVITS) and the distinguished ranking minority member of the subcommittee, Senator SCHWEIKER. Without their hard work and their cooperation, it would not have been possible for the committee to have reported such an excellent bill.

So, Mr. President, the thrust of this legislation is to provide for the extension of the all-important Hill-Burton Act. We are extremey hopeful of being able to adjust the traditional formula to take into consideration the need which exists, for the most part in many of the urban centers, particularly in the municipal hospitals that are assuming a greater and greater responsibility in providing health services, and I believe we can work out a formula that will be more responsive to those particular health needs.

Second, we have included some $100 million that will be available for funding for the urban hospitals, which I think is an extremely important and useful effort.

We have also included in the bill provision for emergency medical services. This was the result of an amendment introduced by the Senator from California (Mr. CRANSTON), and I think all those of us who had an opportunity to review the National Academy of Sciences report that was published widely last Sunday recognize the need for this type of program.

We have included as well a provision for health statistics, which are very important in the development of any health legislation. We are also including in the program, hopefully, provision for emergency medical services at mental health centers, with their broadened responsibility to help meet the problems of drug addiction and alcoholism, as well as the special problems of the elderly and the young, so as to provide a better service to the community, and the allied health centers program itself.

I believe that these programs will help in responding to many of the varying health needs of the people of this country. We will also have some technical corrections, which will be offered in the form of an amendment to be offered by the ranking Republican member (Mr. JAVITS) and myself.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHWEIKER. Mr. President, I urge the Senate to pass S. 3716, a bill which extends the Hill-Burton community mental health centers and allied health training programs. These are important programs in the national effort to provide facilities, personnel and services for the health of our citizens.

The authorities for these programs under the Public Health Service Act expire on June 30, 1973, and it is important that the Congress move to extend these authorities in advance of their expiration.

First enacted in 1946, the Hill-Burton program, to provide financial assistance for the construction and modernization of hospital facilities, has been the foundation of Federal support for the nearly 3,900 communities which have provided better health care facilities with Federal assistance.

Originally, the program focused on the need to construct new hospital facilities. Now, the emphasis has moved to modernization of current facilities in order to keep abreast of modern technology and medical/scientific knowledge.

Mr. President, the most sensitive element of the Hill-Burton Act is the formula for the allocation of funds to the States. When Hill-Burton was first enacted, Congress devised a formula which gave a priority to those States with a lower level of per capita income. This was based on the fact that at that time States with relatively low per capita income were also States that had the lowest rates of existing hospital beds in proportion to its population. Thus the formula included population and the per capita income squared. This rule has become known as the per capita income squared rule. The effect of this formula has been to give the poor States more money proportionately in relation to population than to wealthier States. Frankly, some of the Nation's more urban States have suffered.

There have been attempts to change the formula. In 1970 the Senate added a measure of need to the formula. However, the Senate provision was deleted and the original formula is the existing law.

S. 3716 as reported by the Labor and Public Welfare Committee proposes a new formula which allocates funds for construction and modernization of health-care facilities on the basis of population, financial need, and the extent of the need for construction and modernization of such facilities in the respective States. The formula is two-thirds weight on population and income and one-third on need.

Mr. President, it is my understanding that this formula in the committee bill will be amended to a formula of population income squared and need—80 percent weight on population and income, 20 percent on need. I support such a change.

Other provisions in this bill dealing with Hill-Burton include a limitation so that the principal of guaranteed loans and loans for which there are interest subsidy payments shall not exceed the amount of grant funds obligated under the act.

Mr. President, one of the most serious deficiencies in the health system in many communities is the inability to respond immediately and effectively to emergency medical crises. The bill authorizes, under the Hill-Burton program, the Secretary of HEW to support State and local governments to improve and expand emergency medical services. Grants are authorized to support programs which include training of specialized professional and paraprofessional staff, a 24-hour communications system with appropriate linkages between a dispatch point, vehicles, and emergency medical facilities. Also required of such a plan are adequate provisions for properly equipped emergency vehicles.

Mr. President, one of the problems that we hear mentioned with regard to the status of the Nation's health is the shortage of medical personnel, particularly in the nonurban or rural areas of the country. It has been pointed out that our rural areas are not properly served, either by appropriate numbers of professionally-trained medical manpower or the needed facilities to provide medical services. This problem was considered in some depth when the Congress last year enacted the Comprehensive Health Manpower Training Act. Several years ago the Carnegie Commission on Higher Education recommended that the Nation's medical-health science centers, that is, our medical universities, assume a role in the development of area health education centers which would serve as major satellites in rural areas to the university health science centers. These health education centers would have as a nucleus a hospital, usually a community hospital, and would be located in less-populated geographic areas or in urban areas so densely populated that a full health-science center could not possibly perform the broad educational research, and community service functions which the report recommended. Mr. President, this bill amends the Public Health Service Act to permit the regional medical programs to include, as part of their ongoing programs, support for the planning and implementation of these area health education centers.

In recognition of the vital role played by allied health personnel in the delivery of health services, the Congress, in 1966, enacted the Allied Health Professions Personnel Training Act. This act authorized four types of assistance for training centers for allied health professions: grants for construction, formula and special improvement grants for education programs, advanced traineeships, and grants for development of new types of health personnel. The pending bill would extend the authorities under the act for: First, grants to allied health training centers for construction of teaching facilities; second, formula and special improvement grants to training centers for improvement of educational program; third, special projects—grants and contracts—for experimentation, demonstration, and institutional improvement; fourth, traineeships for advanced training of allied health professions personnel preparing to serve as teachers, administrators, or allied health specialists; fifth, grants and contracts to encourage full utilization of educational talent for allied health professions; sixth, scholarship grants, work-study programs, and loans for allied health students. This is a very important section of the bill since, as is stated in the committee report:

> It has also become quite clear that allied health manpower is an increasingly important resource if we are to achieve our goal of providing accessible, high-quality, economical health services to all of our citizens.

Mr. President, I strongly support the committee's endorsement of continued assistance for the allied health professions as a Federal commitment to develop critically necessary manpower.

Mr. President, we fail to think of the Nation's mental health when we speak of our unmet health needs. Our system of health-care delivery must become a comprehensive system, including mental health resources, which provides an adequate network of facilities and personnel to serve the Nation's varied physical and mental-health needs. To this end, S. 3716 extends and revises the Community Mental Health Centers Act. Part B of the bill renews this expiring legislation for an additional 2 years and extends Federal support for existing centers through their 12th year of operation.

One of the most important areas in which the Community Mental Health Centers Act is deficient is in providing for adequate delivery of mental-health services to our children. The bill provides an emphasis on the need for a comprehensive range of services for this important population group. Although community mental health centers are required to provide services to children, the bill places a specific focus on programs which are preventative in nature including outreach efforts and "innovative approaches to coordinating a range of comprehensive health, social, and other human services for children."

The bill also takes cognizance of another special population group, the aged. According to the committee:

> Although virtually all Community Mental Health Centers do provide services for the aged, few have provided comprehensive specialized programs targeted at the needs of this group.

The bill seeks to emphasize services and treatment which eliminate the need for institutionalization of the elderly. The motive here is to provide services which rely on community resources.

Finally, Mr. President, I wish to point out that the Community Mental Health Centers Act is extended to provide financial assistance for the prevention and treatment of alcohol and narcotics abuse and addiction programs.

Mr. President, it is anticipated that four bills which have already passed the Senate will be attached to this bill in order to facilitate their consideration in a House-Senate conference. These include medical assistance in areas with health manpower shortages, public health personnel traineeship programs, migrant workers, and assistance for medical libraries. I wish to emphasize, Mr. President, that these bills have already passed the Senate and are being included in this bill to insure that they will be on the agenda for consideration by a House-Senate conference committee.

Mr. President, I wholeheartedly support the adoption of the pending bill, S. 3716.

Mr. KENNEDY. Mr. President, I sug-

gest the absence of a quorum, without the time being charged.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and Senator JAVITS.

The PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 33, line 7, strike the word "Act" and insert in lieu thereof the word "title".

On page 33, insert between lines 8 and 9 the following:

"TITLE I—EXTENSION OF TITLE VI PROGRAMS"

On page 67, line 7, add the following:

"TITLE II—MEDICAL LIBRARY ASSISTANCE

"SEC. 201. That this title may be cited as the 'Medical Libraries Act of 1972'.

"EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

"SEC. 202. (a) Section 393(h) of the Public Health Service Act is amended to read as follows:

"'(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $17,000,000 for the fiscal year ending June 30, 1975, $19,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977.'

"(b) The first sentence of section 394(a) of such Act is amended to read as follows:

"'In order to enable the Secretary to carry out the purposes of section 390(b)(2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, $4,000,000 for the fiscal year ending June 30, 1974, $6,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977.'

"(c)(1) Section 395(a) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"(2) Section 395(b) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"(d) Section 396(a) of such Act is amended to read as follows:

"'SEC. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $11,500,000 for the fiscal year ending June 30, 1977.'

"(e) The first sentence of section 397(a) is amended to read as follows:

"'In order to enable the Secretary to carry out the purposes of section 390(b)(6) there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, $6,500,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 3, 1976, and $9,500,000 for the fiscal year ending June 30, 1977.'

"(f) The first sentence of section 398(a) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"TITLE III—EMERGENCY HEALTH PERSONNEL ACT AMENDMENTS

"SEC. 301. That this title may be cited as the 'Emergency Health Personnel Act Amendments of 1972'.

"SEC. 302. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"'SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the "Corps") which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages.'

"(b) Section 329(b) of such Act is amended to read as follows:

"'(b)(1) The Secretary shall (a) designate those areas which he determines have critical health manpower shortages, (B) conduct information programs in such areas as may be necessary to inform the public and private health entities serving those areas of the benefits available under this Act and to encourage their application for such benefits, and (C) assist such entities to apply for the assignment of Corps personnel and other benefits authorized under this Act.

"'(2)(A) Upon request of a State or local health agency, or any public or nonprofit private health entity in an area designated by the Secretary under paragraph (1)(A), and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for the area, that such health personnel are needed for that area, the Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for all persons residing in such areas except that where all of the foregoing conditions are met in an area, except certification of need by the State and local medical, dental, or other health societies, and the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, then the Secretary may, after consultation with the appropriate medical, dental, or other health societies, assign such personnel to that area. Corps personnel shall be assigned to such area on the basis of the extent of the need for health services within the area and without regard to the ability of the residents of the area to pay for health services.

"'(B) In providing health care and service under the section. Corps personnel shall utilize the facilities and organizational forms adapted to the particular needs of the area and shall make services equally available to all persons in such area regardless of the ability of such person to pay for the care and services provided in connection with—

"'(i) direct health care programs carried out by the Service;

"'(ii) any direct health care programs carried out in whole or in part with Federal financial assistance; or

"'(iii) any other health care activity which is in furtherance of the purposes of this section.

"'(C) Any person who receives health care or services provided under this section shall be charged for such care or service at a rate and in a manner (including prepayment, capitation, incentive reimbursement, fee-for-service, or other basis) established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect on a capitation, prepayment, incentive reimbursement, fee-for-service, or other basis from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and funds allocated or obligated under this section shall not be dependent on or related to such fees collected in any way.

"'(D) Notwithstanding the provisions of the Federal Property and Administrative Services Act (40 U.S.C. 471), the Secretary may transfer the title to any or all facilities, equipment, and supplies, belonging to the Service and being utilized by the Corps in a medically underserved area designed by the Secretary under subsection (a) to any public or private nonprofit institution which the Secretary determines will conform to minimum standards of operation prescribed by him. In a case where the Secretary determines, after a hearing on the record, that such real or personal property is not being utilized in conformance with such minimum standards, title shall revert (after payment of proper compensation for facility improvements, if any) to the United States. This paragraph shall not apply to any hospital or clinical facilities operated by the Service prior to December 31, 1971.'

"(c) Section 329(c) of such Act is amended by striking out 'Service' and inserting in lieu thereof 'Corps'.

"(d) Section 329(d) of such Act is amended—

"(1) by striking out 'Service' in the first sentence and inserting in lieu thereof 'Corps', and by inserting before the period at the end of such sentence the following: ', except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability of care or services by Corps personnel in the area, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area, but only if such utilization shall assure the continual provision of care to persons entitled to care and treatment at such facilities at such time.';

"(2) by striking out 'If there are no such facilities in such area' in the second sentence and inserting in lieu thereof 'If there are no health facilities in or serving such area';

"(3) by adding after the second sentence the following new sentence: 'In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals.'; and

"(4) by inserting '(1)' after '(d)' and by adding at the end the following:

"'(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"'(3)(A) For the purpose of recruiting persons for the Corps who have gained experience in the provision of health services as a direct result of specialized military training, the Secretary, in cooperation with the Department of Defense and the Veterans Administration shall develop a list of persons having such experience.

"'(B) In the assignment of personnel to designated health manpower shortage areas, the Secretary shall give priority to persons recruited from the list developed under paragraph (A), with respect to such individuals' desires.'.

"(e) Section 329(f) of such Act is amended (1) by striking out 'Service' in paragraphs (1) and (3) and inserting in lieu thereof 'Corps', and (2) by striking out 'to select commissioned officers of the Service and other personnel' in paragraph (2) and inserting in lieu thereof 'to select personnel of the Corps'.

"(f) Subsection (g) of section 329 of such Act is redesignated as subsection (k) and the following new subsections are inserted after subsection (f) of such section:

"'(g) The Secretary shall report to Congress no later than May 15 of each year—

"'(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"'(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"'(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application.'

"'(h) Section 5532 of title 5, United States Code shall not apply to a retired officer of a regular component of a uniformed service who holds a full-time position with the Corps, during the time he holds such position.

"'(i) The Secretary may from time to time and for such period as he deems advisable secure the assistance and advice of experts, scholars, and consultants, including the services of advertising and other public information specialists, to foster, promote, and improve the image of the Corps with regard to the provision of health services and with the further aim of emphasizing recruitment of new and retention of present members of the Corps.

"'(j) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.'

"(g) Section 329(k) as redesignated by this Act, of such Act is amended by striking out 'and' after '1972;' and by striking out the period at the end and inserting in lieu thereof '; $30,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975, sums appropriated under this section shall remain available until expended.'

"(h) Section 329 of such Act is further amended by adding at the end thereof the following new subsection:

"'(l) Where the Corps requires personnel assigned to designated shortage areas to obtain State and local licenses or permits, the Secretary shall pay the fees therefor.'

"SEC. 303. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

"(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

"(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on which such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

"(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall contain—

"(1)(A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided such equivalent care and treatment through such hospital or other facility, or under such new arrangement and (B) a detailed explanation of how such care will be provided to such persons, and an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer;

"(2)(A) assurances that the capacity to supply health services to the critical manpower shortage areas near the facillity will not be impaired by the closing or transfer and (B) a detailed explanation of how persons residing in such areas will be provided such care and treatment after the proposed closing or transfer;

"(3)(A) assurances that any teaching program conducted at the hospital or other facility proposed to be closed may be conducted at other appropriate facilities, and (B) a detailed explanation of how such program will be conducted after the proposed closing or transfer; and

"(4) the approval of those agencies established under section 314 (a) and (b) of the Public Health Service Act, having jurisdiction in the area in which such hospital or other facility is located, where both such agenceis exist or the approval of only one such agency where only one exists in such area.

"SEC. 304. Section 741(f) of the Public Health Service Act is amended (1) by striking out 'The payments' in paragraph (2) and inserting in lieu thereof 'Except as otherwise provided in this paragraph, the payments', and (2) by adding after and below subparagraph (C) the following:

"'In the case of any individual who qualified under paragraph (1) for payments on the principal of and interest on a loan and who, as a member of the National Health Service Corps, practices his profession in an area designated under section 329(b), the portion of the principal of and interest on the loans for which payments may be made for and on his behalf under paragraph (1) shall, upon completion of the first year of such practice, be 50 per centum and, upon completion of the second year of such practice, be the remaining 50 per centum.'

"SEC. 305. Section 218 of the Public Health Service Act is amended to read as follows:

"'PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"'SEC. 218. (a) The purpose of the Public Health and National Health Service Corps scholarship training program (hereinafter referred to as "such program") is to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"'(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"'(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"'(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health related specialty, as determined by the Secretary;

"'(3) be eligible for, or hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"'(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section, in the National Health Service Corps, the Indian Health Service, the Federal Health Programs Service, and such other programs as the Secretary may designate.

"'(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade 0–1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"'(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"'(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, osteopathy or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying on active duty service obligation under this section except that if such residency is served in a Public Health Service facility or facility of the National Health Service Corps such residency shall be counted as satisfying the active duty service obligation under this section.

"'(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus

interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury with respect to the grant on account of which such amount is due the United States.

"'(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"'(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"'(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"'(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"'(k) To carry out the purposes of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975.'

"SEC. 306. Section 2(f) of the Public Health Service Act is amended by inserting after 'Puerto Rico,' the following: 'Guam, American Samoa, and the Trust Territory of the Pacific Islands,' ".

"TITLE IV—MIGRANT HEALTH

"SEC. 401. Section 310 of the Public Health Service Act is amended by striking out '$30,000,000 for the fiscal year ending June 30, 1973,' and inserting in lieu thereof 'not to exceed $60,000,000 for the fiscal year ending June 30, 1973, $105,000,000 for the fiscal year ending June 30, 1974, and $120,000,000 for the fiscal year ending June 30, 1975'.

"SEC. 402. Section 310 of the Public Health Service Act is further amended by striking 'and' immediately before the clause designation '(ii)' in paragraph (1) and inserting at the end of such clause the following: 'and (iii) premiums for a prepaid health care plan eligible for Federal assistance where such clinics or special projects so request. All such clinics, special projects, and prepaid health care plans shall provide out-reach and follow-up services;'.

"SEC. 403. Section 310 of the Public Health Service Act is further amended by inserting '(a)' immediately after the section designation and by adding at the end of such subsection the following new subsection:

"'(b) There are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to assist in the provision of necessary hospital care to domestic agricultural migratory workers and their families.'

"SEC. 404. Section 310 of the Public Health Service Act is further amended by adding at the end of new subsection (b) the following new subsection:

"'(c) In making grants under this section the Secretary shall give priority to those applicants whose policy-making body is composed of a majority of persons who are consumers of its services, where competing applicants appear to the Secretary of Health, Education, and Welfare to be equally qualified.

"TITLE V—PUBLIC HEALTH GRADUATE TRAINING

"SEC. 501. Section 306(a) of the Public Health Service Act is amended to read as follows:

"'SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for the fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; and $34,000,000 for the fiscal year ending June 30, 1977.'

"SEC. 502. Section 309(a) of such Act is amended to read as follows:

"'SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; and $20,000,000 for the fiscal year ending June 3, 1977.'

"SEC. 503. (a) Section 309(c) of such Act is amended to read as follows:

"'(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"'(1) comprehensive and multidisciplinary training in the field of public health; and

"'(2) specialized consultative services and technical assistance in the field of public health.'

"(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"'(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"'(e) In awarding grants made under subsection (c), the Secretary shall give primary consideration to the relative number of students enrolled in such schools.

"'(f) There are authorized to be appropriated for carrying out the purposes of subsection (c), $21,000,000 for the fiscal year ending June 30, 1973; $24,500,000 for the fiscal year ending June 30, 1974; $28,000,000 for the fiscal year ending June 30, 1975; $31,500,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"'(g) To enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate training in health care administration and management training, and for the purpose of strengthening or expanding such training in such institutions, there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; $6,000,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.'.

"SEC. 504. Sections 306 and 309 of the Public Health Service Act are each amended by striking out 'Surgeon General' each place it occurs and inserting in lieu thereof 'Secretary'."

Mr. KENNEDY. Mr. President, on behalf of the distinguished ranking minority member of the Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS), and myself, I am offering a package of amendments to S. 3716, which simply add to the bill four additional Senate-passed Public Health Service legislative extensions. These four measures are migrant health, medical libraries, public health training, and emergency health personnel. We are amending the committee's bill in this respect, Mr. President, simply to expedite the passage of these vital health programs in this Congress. Through this amendment we intend to place each of these programs before a House-Senate conference committee within the next week.

As I have indicated, each of these measures has already passed the Senate without a dissenting vote. I urge the adoption of the committee amendment.

Mr. SCHWEIKER. Mr. President, as the ranking Republican member of the Health Subcommittee, I support the chairman in his efforts and concur with his statement, and I strongly support the adoption of the amendment.

The PRESIDENT pro tempore. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senator JAVITS.

The PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 63, insert between lines 5 and 6 the following:

"(2) Section 221(b) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1975'.

On page 62, line 16, insert "(1)" immediately after "(n)".

On page 60, insert between lines 8 and 9 the following:

"(2) Section 261(a) of such Act is further amended by striking 'construction and staffing of facilities' and inserting in lieu thereof 'facility and operating costs of facilities'."

On page 60, strike lines 9 through 11, and insert in lieu thereof the following:

"(3) Section 261(b) of such Act is amended to read as follows:

"'(b) There are authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next fifteen years such sums as may be necessary to make grants for operating costs with respect to any project under part C or D for which an operating grant was made from appropriations under

subsection (a) of this section for any fiscal year ending before July 1, 1975.'."

On page 60, line 12, insert "(1)" immediately after "(1)", and on page 61, between lines 2 and 3 insert the following:

"(2) Section 271(a) of such Act is amended by striking the words 'construction of' and 'of compensation of professional and technical personnel'.

"(3) Section 271(b)(3) of such Act is amended by striking the words 'construction of'.

"(4) Section 271(c) of such Act is amended by striking the words 'costs of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs'."

On page 64, insert between lines 4 and 5, the following:

"(p)(1) Section 242(a) of such Act is amended by striking the words 'costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs (determined pursuant to regulations of the Secretary)';

"(2) Section 242(b)(1) is amended by striking the word 'three' and inserting in lieu thereof 'seven' and striking the word 'eight' and inserting in lieu thereof 'twelve';

"(3) Section 242(b)(2) is amended by striking the word 'three' and inserting in lieu thereof 'seven';

"(4) The section caption of section 242 of such Act is amended by striking the word 'Staffing' and inserting in lieu thereof 'Operating'.

"(q) Section 243(a) of such Act is amended by striking the words 'compensation of professional and technical personnel' and inserting in lieu thereof 'operating expenses';

"(r) Section 244 of such Act is amended by striking the words 'a project for the construction or initial staffing' and inserting in lieu thereof the words 'facility and operating costs'.

"(s)(1) Section 251(a) of such Act is amended by striking the words 'of construction' and 'of compensation of professional and technical personnel' and inserting in lieu of the latter the words 'operating costs'.

"(2) Section 251(c) of such Act is amended by striking the words 'costs of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs'.

"(3)(A) Section 256(b)(1) of such Act is amended by striking the word 'eight' and inserting in lieu thereof 'twelve'.

"(B) Section 256(b)(2) of such Act is amended by striking the word 'three' whereever it appears and inserting in lieu thereof the word 'seven'.

"(4) Section 254 of such Act is amended by striking the words 'a project for the construction or initial staffing of a' and inserting after the word 'facility' the words 'operating costs'."

On page 62, line 13, strike the words "this section or".

On page 63, line 14, insert before the word, 'to', "or mental health of the elderly".

On page 65, strike lines 7 through 15, and on line 16, strike "(3)" and insert in lieu thereof "(2)".

Mr. KENNEDY. Mr. President, on behalf of Senator JAVITS, the ranking minority member of the Committee on Labor and Public Welfare, and myself, I am offering a series of technical amendments to S. 3716, which are designed to correct certain inconsistencies in sections 13 and 14, which deal with community mental health centers. These amendments insure that the intent of the committee will be clarified with respect to this legislation. They have been worked out with the minority members.

I urge adoption of the technical corrections which have been designated in the amendment.

The PRESIDING OFFICER (Mr. STEVENSON). Is all time yielded back?

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I realize that sometimes a very important bill passes, like this one, with full consent of the Senate and not too much debate. But I should like to emphasize the importance of this measure.

One title of the bill represents a critical element in the construction and modernization of hospitals in the country. It is an absolutely indispensable tool for the development and improvement of health facilities. Another title of the bill provides expanded support for community mental health centers which have been growing in importance and have a vital role in dealing with the problem of mental illness.

Senator KENNEDY is probably the apostle here of the idea of community mental health centers and has been the principal force for bringing about considerable attention to that matter, not only in these health measures from his own subcommittee but also in the anti-poverty bill.

I wish to emphasize, therefore, the aspects of Hill-Burton, the community mental health centers program and the extension of training in the allied health professions—all of which are contained in this very important bill.

Mr. President, I hope not only that the Senate will pass this bill, as now seems obvious, but also that we will be able to get together with the House in this session and that the bill may then become law; because, as we have perceived in our committee, in cases of health—probably uniquely in cases of health—the lead-time is very long as between the development of an idea, its implementation, and its fruits, in view of the problems of adequate training for personnel and other problems connected with really setting up for the delivery of the services for which we provide in this legislation.

My only purpose in this brief statement is to emphasize the importance of this bill to the total complex of medical care in the United States, notwithstanding the fact that it has not been extensively debated, and to congratulate Senator KENNEDY upon the fine work of the Health Subcommittee, which has produced this measure and many other measures of tremendous benefit to the people of our country.

Mr. COOPER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. COOPER. Mr. President, I am not attempting to give my views on the merits of letters I have received. I have received a number of letters dealing with the change in the Minimum Wage Act for hospital workers. This measure does not concern that matter, does it?

Mr. KENNEDY. No. It does not in any way affect legislation in respect to minimum wage for hospital workers.

Mr. COOPER. I am glad to hear the explanation of the Senator from Massachusetts and the comments of the Senator from New York.

A quick reading of the report and the bill indicates the tremendous value of this bill in strengthening the Hill-Burton program for community centers and many other innovative features which will do a great deal to strengthen hospital facilities and to help people who need help so badly in this field.

Mr. KENNEDY. I thank the Senator from Kentucky and the Senator from New York for their statements.

The Senator from New York is correct that, in spite of the fact that there is not a long and extended debate, the problems included in this measure are in many respects the backbone for allied health personnel, and for the building of health facilities and for community mental health programs. I think the measure represents the best judgment of all the members of the committee.

Mr. President, I yield back the remainder of my time on the amendment.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, will the Senator permit me at this time to offer an amendment that I know he has studied?

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. RANDOLPH. Mr. President, before the amendment is considered, I ask unanimous consent that Robert Humphreys, a staff member of the Committee on Labor and Public Welfare, have the privilege of the floor.

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

The assistant legislative clerk read the amendment, as follows:

On page 47, beginning with line 5, strike section 4 in its entirety and insert in lieu thereof the following:

"Sec. 4. Paragraph (1) of section 602(a) of the Public Health Service Act (42 U.S.C. 291(b)), as amended, is amended to read as follows:

"'(1) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States, from the sum appropriated under subparagraph (1), (2), or (3) of paragraph (a), or under subsection (b), of section 601, for grants for construction of, respectively (A) public or other nonprofit facilities for long-term care, (B) public or other nonprofit outpatient facilities, (C) public or other nonprofit rehabilitation facilities, and (D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the following factors: (i) the population, (ii) the square of the per capita income, and (iii) the extent of the need for construction of the facilities for which grants from the allotment are to be made, of the respective States. For purposes of applying the preceding sentence, the factor referred to in clause (i) thereof shall be assigned a value equal to the value assigned to the factor referred to in clause (ii) thereof, and the value assigned to the factor referred to in clause (iii) shall be assigned a value equal to one-half of the value assigned to the factor referred to in clause (i) or (ii) thereof.'"

Mr. RANDOLPH. Mr. President, this amendment has been discussed in the Committee on Labor and Public Welfare, and the floor manager of this legislation, the distinguished Senator from Massachusetts (Mr. KENNEDY), has kindly considered the proposal.

I offer the amendment. As indicated in the committee report on this important legislation, the bill yould alter the formula for alloting funds for hospital construction to the States by substituting for the existing formula one which gives equal weight to population, financial need, and the extent of the need for construction of facilities.

The amendment offered would adopt the same formula agreed to in the Senate in 1970 when it last amended the Hill-Burton Act.

Thus the formula would be weighted on the basis of 40 percent population, 40 percent per capita income squared, and 20 percent need for construction of facilities.

This proposal is, as I say, a compromise between the existing formula and that proposed in the bill as it comes from the committee.

I am hopeful that the chairman, who is so knowledgeable in this field as the chairman of the Subcommittee on Health, will accept the amendment I have offered.

Mr. KENNEDY. Mr. President, I yield to the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, this amendment which has been proposed by the distinguished Senator from West Virginia is a compromise, but I would be less than true to my responsibility as a Senator from New York and to the other industrialized States and urbanized States who are in the same position we are if I did not call attention to the fact that it is a compromise, only because the practicalities will probably make it unlikely, to say the least, that we can do any better. However, that does not make it just.

The fact is, Mr. President, the time has long since passed. It is now 26 years, since 1946, when the Hill-Burton formula was first adopted due to the gifted intercession of Senator Hill of Alabama, who was chairman of the committee for a long time. Circumstances have changed drastically since that time and new methodologies have been developed to measure need rather than per capita income squared. The whole key to the formula was that it gave the so-called poor States, based on per capita income, a very heavily weighted 2-to-1 advantage over the urbanized States. At the time, that advantage could be justified—I will give the detail on that in a moment—but that time has long since passed. I have been waging, along with others, and I think with the sympathy of the distinguished Senator from Massachusetts (Mr. KENNEDY) a fight to change this formula, because it is simply out of date. The degree to which it is loaded against the urbanized States is unjustified.

The committee formula is a fair one, composed of the three components of income, need, and population. But the amendment of the Senator from West Virginia (Mr. RANDOLPH) would again still weight it, but this time, the weighting only goes to 40 percent. It is still per capita income squared, but the per capita income squared is only 40 percent of the formula. It results in a modest improvement, say about 10 percent in round figures, in the situation of the urbanized States, but by no means is it an adequate improvement.

The difficulty in making a change on this is that in the Senate where we have two Senators from each State, a good many States, if the formula were equitably corrected, would lose something. It is well known—we just saw it in the revenue sharing bill—that that is not a happy proposition for the urbanized States. Therefore, Mr. President, notwithstanding the deep inequity which I still protest and which I cannot justify, but simply on the practicalities of the situation, I have had to reconcile myself to accepting the compromise.

The factual situation is this: in 1946, when we first loaded the formula against the urbanized States, it was a fact that the eight States with the highest per capita income had four beds per 1,000 population, as against 2.5 beds per 1,000 population in the eight States with the lowest income. But this imbalance has now been corrected.

Now, 4.08 beds per 1,000 population in the same high-income States and the low-income States have raced ahead of them. They now have 4.34 beds per 1,000 population. So the formula should be correct, according to the way the committee corrected it.

We live in a realistic world. Some improvement is better than no improvement. The process, notwithstanding what I have been able to do about it, is undoubtedly going to be slow in bringing back this correction. In a sense, it is a warning to the urbanized States. Once we open the door to a lopsided formula, it will take decades to root it out.

I have no word of criticism for those who wrote that formula, which would continue as it was, and which the mover of the pending amendment has made a compromise—indeed, the Senator from West Virginia (Mr. RANDOLPH) has tried within the limitations he feels surround him, as he comes from a State which, in terms of per capita income, is a "poor" State, and he has done his best to reach some accommodation with my own viewpoint which, for myself, I cannot help continuing to protest the inequity of, but I do not believe it would be in the interests of the people of my State or of any other urbanized State to sacrifice what advances can be made, at long last, in beginning to change the formula.

So, Mr. President, I accept the compromise. But I serve notice that I shall do my utmost to improve the situation in every other respect that I can, and on this bill, once the terms of the bill as it is enacted into law have expired. But this is a longstanding inequity. This is some correction but by no means now recognizes the new situation which is already factually created by the imbalance which has persisted over these past 26 years.

So, with those considerations, as I said when I started, the amendment, much as I am not happy about it, is acceptable to me.

Mr. RANDOLPH. Mr. President, if I may comment on the remarks of the able Senator from New York who, with Senator KENNEDY, has given much attention to this vital program, the following facts I think might be included in our discussion.

I think it is important that we know the House Committee on Education and Labor has determined that elimination of the squaring of the present per capita income in the formula would result in a reduction of allotments for 35 States and territories. Senator JAVITS has indicated that there would be a change but not in the exact figures that I have stated. It is interesting that within the act, as amended by the Hill-Burton legislation in the last Congress, there is a provision which reads:

> The Secretary of HEW shall conduct a study of the results of the formula specified—
>
> And so forth;
>
> . . . for allotment among States of sums appropriated for construction of health facilities and shall report to the Congress on May 15, 1972, the results of such study.

As the Senator from New York knows, we have not received that report. And the report was to be coupled with recommendations for such changes if they were deemed to be advisable.

In our committee we have had no chance, therefore, to review any of the recommendations that the Secretary might make. And I am told that the survey has not yet been concluded by HEW.

Mr. KENNEDY. Mr. President, if the Senator will yield, I understand that the survey has been concluded and has actually been made available to the minority members of the committee.

Mr. RANDOLPH. We have not received it.

Mr. KENNEDY. No, and I wish that we could.

Mr. JAVITS. Mr. President, if the Senator would yield, I am the ranking minority member of the committee, and I have been beating the doors of HEW down for this survey obviously, because it has so much to do with what we are doing today.

I have not seen it, and I did not know it was completed.

I would like the Senator from Massachusetts and the Senator from West Virginia to join with me in insisting that this survey be produced. We are acting in the dark.

Mr. KENNEDY. I think it would be useful if we were all to join together in asking for it. My information is that it has been completed. And we would all benefit from that.

Mr. JAVITS. Mr. President, I wish to emphasize that there is nothing invidious in what I say about any of my colleagues. The State of Massachusetts is in the same position as my State. I understand the position of the Senator from West Virginia and those from other States which are benefiting from the present allocation formula.

It is obviously invidious to us. The bill is going through without the benefit of the survey which could give us some information about my claim that what is being done under the present formula is not right. However, under all of the circumstances and for the reasons I have stated, I simply must reconcile myself to this matter.

Mr. RANDOLPH. Mr. President, I appreciate the comments of the Senator from New York and the Senator from Massachusetts on this point. I would want to say that I have attempted very earnestly to determine if the report were available, and to secure a copy if it were. I did not expect the report to back up what I am attempting to do in the form of a compromise. However, I do say to the Senator from New York that as to all the facts about what has been found and what recommendations could be made, I think it would be very helpful to us during our consideration of this important measure. No testimony was given that I recall on this subject in the hearings.

So, I think that before we alter the formula extensively, we would want to know what recommendations are contained in the study. I say that not because I wish to remain static. I wish to be understanding in a sense and be able to adjust to what is appropriate.

I think that in the State of West Virginia, which does have a problem, of course, with very serious conditions from the standpoint of the shortage of hospitals in our State, we would want to cooperate with other States, industrial and perhaps the more rural. However, I do repeat for the Senate that the Hill-Burton program does not expire until the end of the 1973 fiscal year.

I will join with the Senator from New York and the Senator from Massachusetts in a letter or communication or a visit, whatever would be most helpful to the Secretary, so that we would have the information that our committee requires to make a full assessment of the need for changes in the formula.

We do have adequate time, I think, to explore it further before the end of the 1973 fiscal year and make an adjustment.

And finally, the compromise that I have offered, which has been received in an understanding way by the ranking majority and minority members of the Health Subcommittee, is in a sense a compromise that may not be justified in the way that I would like to see it. Nevertheless, I, in good faith, proposed this compromise, indicating my desire to be helpful in achieving an equitable solution of this problem.

Mr. KENNEDY. Mr. President, I join with the remarks of the Senator from New York. We mentioned earlier about the particular problems that many of the industrial States are facing and that many of the great cities of this country are facing, even outside of the rural States.

From the overwhelming evidence one becomes convinced that it is in these major urban areas where a number of the hospitals and the municipal hospitals have lost their accreditation. This matter poses a significant health problem in many of the communities.

I, too, have joined with the Senator from New York and others in urging that the formula be adjusted to consider not only the income of the population and income, but also need as an important element in the allocation formula for the Hill-Burton funds.

It is interesting to note for the RECORD that when John Veneman, who was Under Secretary of HEW when he appeared before the Health Subcommittee in 1970, said:

> Therefore, we are recommending that as in S. 1733 the population and per capita income squared formula should be replaced by one comprising population, per capita income, used only once, not squaring, and an appropriate measure of health facility need as the elements that make up the formula for the allocation of all grant funds.

That goes back to 1970. That was a statement by Mr. Veneman, Under Secretary of HEW at that time.

Since the requiring of the study as a result of the conference on that bill in 1970, the Senator from New York and I several months ago asked Secretary Richardson with respect to the status of that study.

Then on June 8 of this year, Secretary Elliot Richardson responded and in his letter said:

> We are working on its preparation and you may expect it the early part of July.

He wrote again on July 26 and said:

> This is just a note to let you know that I have not forgotten your letter of May 17.

The point is the study, which was due on May 15, 1972, is overdue today by four months.

So we are realistically in the position today of adjusting the adidtional formula to at least consider the element of need. In effect what the compromise amendment would provide would be a 40-percent formula based on income, 40 percent on population, and 20 percent on need.

I am hopeful we will be able to take this step forward and that we will begin to respond to the most urgent needs in our present hospitals in this country.

I would urge the acceptance of the amendment of the Senator from West Virginia that the legislation be adjusted to reflect his amendment.

I think, as has been pointed out, that we are in a practical situation where an accommodation can be reached and I think his amendment reflects it.

Unless there is further comment we are willing to accept the amendment and I urge its approval.

Mr. RANDOLPH. I thank the Senator.

Mr. ERVIN. Mr. President, will someone yield time to me?

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I wish to speak a word in defense of Senators who represent small States. Like Senators from large States they are actuated by exactly the same motives, which are approved by the Scriptures. The Scriptures say:

> But if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.

I think Senators from large States and Senators from small States should recognize that even in such Gardens of Eden as North Carolina and other small States people get sick and need hospitalization.

I wish to commend the wisdom of the Founding Fathers who provided in the Constitution that every State of the United States should be represented in the U.S. Senate by two Senators. That was a compromise which made the adoption of the Constitution possible. Moreover, it is fraught with great wisdom, because human beings being what human beings are, and being actuated by a desire to look after their own in preference to others, I fear that the smaller States would not get any crumbs from the Federal table until the insatiable appetites of the urban States are satisfied, if the smaller States did not have equal representation in the Senate with the larger States.

Like my friend from New York, my friend from Massachusetts and my friend from West Virginia, I am in favor of a fair formula that would make a fair distribution, but frankly I do not think there is anyone in the United States who is capable of determining with exactness what the particular needs are in the various sections. I find in all sections of the United States great needs in the hospitalization field.

Mr. President, I wanted to make these remarks because I think, after all, Senators from small States have exactly the same right to look after their own as Senators from larger States, and it is very fortunate that we have this constitutional principle that all the States have equal representation in the Senate.

I thank the Senator for yielding.

Mr. KENNEDY. I thank the Senator from North Carolina. I think we are prepared to vote.

Mr. JAVITS. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, that is the end of the amendments I know about. I will suggest the absence of a quorum, with the time not to be charged, to see if other Senators have amendments, and then we will ask for the yeas and nays.

Mr. President, I suggest the absence of a quorum, with the time not to be charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On which side is time?

Mr. SCOTT. I ask unanimous consent

that the time consumed by the quorum call——

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. SCOTT. I withdraw it.

Mr. MANSFIELD. I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I would like to express my support and approval of S. 3716 as it was reported from committee. This bill, the proposed Health Facilities, Manpower, and Community Mental Health Centers Act of 1972, will extend and expand several authorities of the Public Health Service Act as well as the Community Mental Health Centers Act. In the Public Health Service Act the authorities are the Hill-Burton authorities, the authorities to support programs for the training of allied health professions, and a new authority which was contained in an amendment I offered in committee to support comprehensive communitywide emergency medical services systems.

Each of the programs included in S. 3716 are indispensable to the functioning of the Nation's health system.

HILL-BURTON PROGRAM

The Hill-Burton program for the past 25 years has provided the means necessary to enable our communities to meet the need for medical facilities. This authority is extended and in addition the committee, recognizing changes which are occurring as a result of population shifts and social change, has placed new emphasis on construction of outpatient facilities, particularly in areas having a large proportion of low-income residents, as well as on projects for renovation and modernization of existing medical facilities.

ALLIED HEALTH TRAINING

Authorities for support of training in the allied health professions are extended for 1 year by S. 3716. The whole area of training in these professions is undergoing such a rapid change and growth and is so closely related to training in the health professions and in the nursing profession, that any substantive change in these authorities should be done in conjunction with changes in authorities for health professions and nurse training. The 1-year extension will result in simultaneous expansion of the committee to study all these authorities and will develop a comprehensive approach to improving Federal programs of support in the entire area of health training.

I have consistently urged the initiation of programs to encourage the development of new roles for existing health professionals and paraprofessionals, and for the development of new types of health care providers. I have also urged that legislation provide incentives and opportunities for the team training of health care personnel, so that the interrelationships of the skills of each type of provider will be evident to each and will be practiced in a manner most effectively utilizing each skill. I believe studying each of the authorities for health training together will provide the optimum opportunity to legislate effectively in this area.

S. 3716 directs the Secretary of Health, Education, and Welfare to arrange for the conduct of a study to determine the cost of allied health education. Information provided the committee as a result of this study should prove invaluable in developing legislation when the authorities are next scheduled for renewal.

COMMUNITY MENTAL HEALTH CENTERS

A third basic authority extended is that of the community mental health centers, which is extended for an additional 2 years through fiscal year 1975.

Two major changes are made in this authority, one to provide increased emphasis on programs for children and one to add new programs for mental health services for the elderly. While services for both of these groups are already authorized under existing legislation, it is becoming increasingly evident that these two groups are not being adequately reached. An increasing number of children are being assigned to State mental institutions. This sad statistic is evidence that community programs which are the more preferred treatment method, particularly in the case of a child, have not been adequate to the need.

At the same time evidence is mounting that too many elderly patients needing mental health care are in nursing homes where such services are not available. There is a need for the community mental health center to provide outreach services to reach these individuals.

Many elderly patients are assigned to State mental institutions where their mental health problems become more aggravated when the family support or community and environmental surroundings with which they are familiar are removed. As in the case of children, a preferred method of treatment would be in the community. Given the preponderance of the elderly suffering from mental illness, the small percentage of elderly patients using community mental health centers is an indication that special emphasis must be placed on programs for the elderly by these centers.

Another major change made by the bill is the expansion of coverage by grants from only support of staff to support of operations as well. The appropriations authorizations are increased for this purpose to cover the expanded areas of support.

Special incentives are also included in the bill to encourage centers to provide services to alcohol and drug abusers.

Another new emphasis provided by the committee bill is on providing a greater proportion of funding to those centers serving poverty areas.

EMERGENCY MEDICAL SERVICES SYSTEMS

A major new program was added as a result of amendments which I proposed to encourage the development of community-wide emergency medical services systems. Mr. President, I have become increasingly concerned with the inability of our Nation's communities to provide assistance to citizens in times of individual medical emergencies or in times of more widespread disasters. While the provisions of S. 3716 are primarily directed to the development of a comprehensive system for the provision of emergency medical services to the individual, they also require the development of a community plan in case of mass disaster.

EMERGENCY MEDICAL SERVICES SYSTEMS

One of the most serious deficiencies in the health system in many communities is the inability to respond immediately and effectively to emergency medical crises. I have been very concerned with the mounting number of deaths and disabilities resulting from medical emergencies which in many cases could be averted by adequate planning and organization of health resources.

MORTALITY AND DISABILITY FROM MEDICAL EMERGENCIES

Projections from studies indicate that mortality from accidents alone could be reduced by from 10 to 20 percent by proper medical care at the scene of the accident or en route to an emergency facility. Thirty percent of cardiac deaths could be prevented if the public were educated to recognize the symptoms of heart attack, and if ambulance attendants were adequately trained to provide immediate emergency treatment. Five thousand deaths each year from other causes such as poisonings, drownings, and drug overdoses could be prevented by immediate medical attention.

The Ambulance Association of America has estimated that 25,000 individuals are permanently injured or disabled every year by untrained ambulance attendants and rescue workers. In 1970 only 5 percent of the Nation's ambulance attendants met even minimum standards of training recommended by national professional organizations—such as the American College of Surgeons, or the National Academy of Sciences, the Department of Transportation, or the Department of HEW. Five percent of these attendants had no training whatsoever. One-third had had only a standard first-aid course.

Accident is the fourth leading cause of death in the United States. In 1968 trauma resulted in more than 100,000 deaths, 10 million cases of temporary disability, and 400,000 of permanent disability. Trauma patients used more hospital days than all heart patients or all obstetrical patients and more than four times as many hospital days as all cancer patients.

AMBULANCE SERVICES

The adequacies of ambulance services vary widely throughout the Nation. In many communities, ambulance services are run by the local undertaker, in others, the ambulance service is a commercial enterprise—yet few of these find it a profitable business; more than a fourth lose money on ambulance services and depend on other sources for income to make up the loss. The average cost of ambulance service is $75 per trip. Few emergency victims are able to pay that amount. Third-party insurance rarely covers the full cost; in many instances it covers none of the cost.

About one-fourth of the ambulance service in the United States is provided by the local unit of government—usually through a public safety organization such as the fire department, police de-

partment, or sheriff's office. Two percent of ambulance service is provided by hospitals.

The American College of Emergency Physicians reports that only 37 percent of ambulances in a recent survey met minimal design standards, and only 6 percent had facilities to communicate directly with a hospital emergency room. Many ambulances have little more room than that sufficient for a prone patient; forcing the attendant to crouch to minister to him. Frequently, life-saving equipment or even basic equipment such as splints, backboards, or poison antidotes, are not carried as standard equipment on the ambulance.

HOSPITAL EMERGENCY ROOMS

Increasing concern is being expressed regarding the heavy demands made upon a major element of any emergency medical system—the hospital emergency room. Hospital emergency rooms are increasingly called upon to provide outpatient care for the community. There has been over a 600-percent increase in the number of emergency visits in some hospitals in the last 25 years. Nationally the average is an increase of 10 percent a year. Last year there were approximately 50 million visits to emergency rooms.

The increased reliance of the community on the services of the emergency room has vastly compounded the difficulties of providing medical care to the emergency victim.

In many communities the small hospital is particularly hindered by inadequate staffing and undertrained personnel and by equipment shortages. Rural communities serving underpopulated areas find it particularly difficult to maintain emergency medical services at the optimum staff and equipment level necessary to meet the infrequent need to provide critical care to an accident victim. According to a study of the National Academy of Sciences, 70 percent of motor vehicle deaths occur in rural areas and communities with a population under 2,500. Some of this tragic difference is caused by inability to reach the patient quickly in an isolated area, but some of it is caused by the inadequacies of emergency room facilities.

I believe a special problem faces the rural community which also serves as a resort community on a seasonal basis. For a major part of the year, such communities have a small number of critical medical emergencies. However, during the peak of the resort season, the number of emergencies rises sharply. Frequently these areas have minimal health personnel or health facilities capable of dealing with these emergencies. In such instances the need for areawide planning of emergency medical services and coordination of such services with neighboring communities becomes a matter of necessity.

ADVANCES IN TECHNOLOGY

Modern science has given us the means of overcoming many of the obstacles to providing immediate and effective emergency medical care. The development of portable equipment for the treatment of victims of heart attack, or other critical and sudden illnesses; the development of totally equipped and staffed mobile critical care units capable of bringing the expertise of the hospital to the scene of the emergency; developments in radio and telecommunications permitting electronic monitoring and transmittal of patient data to an acute care center; utilization of rapid means of transport such as helicopters where ground transportation access is poor or too slow—have provided us with the tools necessary to assure prompt response and reaction to a medical emergency.

COORDINATION IN PLANNING SYSTEMS OF EMERGENCY MEDICAL SERVICES

I feel the deficiencies of emergency medical services throughout the country are not impossible to correct. The technical information and the medical capacity to deal with these problems exist. However, to date, efforts to find solutions to them have been fragmented and uncoordinated. The greatest deficiency has been lack of coordinated planning efforts at both the local and the national levels. At the community level, methods must be developed of involving all elements related to the provision of emergency services in meeting community needs.

At the Federal level, governmental units in numerous agencies are concerned and involved with the provision of these services, yet coordination has been haphazard.

In drafting this legislation, I considered means of developing a system whereby these units could work together nationally and locally toward meeting their shared goals.

S. 3716 is intended to provide the means by which this can be accomplished. The bill authorizes the Secretary of HEW to provide support to States, units of local governments, or combinations of local governments, comprising a SMSA to assist in, improve and expand the provision of emergency medical services. A basic requirement of any application for funding is the development of a comprehensive plan for the establishment of an emergency medical services system. Opportunity for participation in the development of the plan must be assured to all elements in the community having a relationship to emergency medical services, including consumers, public safety agencies, communications networks, representatives of Federal agencies, as well as health care providers, health facilities, and health education institutions.

The community must establish an area emergency medical services planning council whose membership will include representatives of these elements, and whose functions will include development of the plan, in consultation with the 314(a) and appropriate 314(b) planning agency, as well as continuous monitoring and evaluation of the operation of the emergency medical services system.

For the State or community to be eligible for Federal support, the plan must provide for certain essential elements.

TRAINING

To be eligible for a grant or contract the plan must include provision for the training of sufficient numbers of specialized professional and paraprofessional staff as well as providing for their continuing education.

Fully trained emergency medical services personnel are an essential element of any comprehensive emergency medical services system. I, therefore, feel that adequate programs for educating and training such individuals must be developed. The bill requires that these programs meet criteria and standards approved by the Secretary after due consultation with appropriate medical and educational interests. Since there will be an immediate demand that these programs be supported in sufficient numbers to provide the personnel necessary to permit the adequate functioning of EMS systems supported under this Act I would hope the Secretary will make the development of these programs a first priority.

The bill specifies that all training and education activities developed under plans adopted be coordinated with programs authorized under title III, VII, VIII, and IX of the Public Health Service Act. This coordination will ensure the full utilization of federally supported programs under other legislative authorities and should avoid the duplication of training activities.

The multidisciplinary approach to the provision of emergency medical services has proven its effectiveness in Los Angeles, Jacksonville, and the State of Illinois, among other communities having exemplary systems for the provision of emergency medical services. I believe that the training of emergency medical service personnel is particularly suited to the concept of team training provided within the concept of the total emergency medical services system.

Continuing education is of paramount importance to the paraprofessional as well as to the professional. I feel that any member of the emergency medical staff should be required to participate in regularly scheduled continuing education programs.

In order for EMS systems to be properly planned, developed, operated and evaluated, several types and levels of personnel will be needed and must be trained.

Currently, there are approximately 15,000 physicians providing emergency care on a full-time basis in emergency rooms across this Nation. Until 1972 there were no postgraduate training programs for emergency physicians such as those under which other specialists are trained. There are now six such programs, and more are being developed. This expansion in the number of postgraduate training programs is promising and I hope the expansion will continue. Many more of these programs are needed to provide the number of full-time emergency physicians needed to adequately serve the Nation's communities. In addition, these physicians must have access to continuing education programs geared to their needs as emergency physicians.

Further, there is a need for all physicians in postgraduate training programs in other specialties and physicians practicing in other specialties to be able to handle common medical emergencies as well as those which arise in

their specialties. Programs must be developed to provide training for these physicians to handle common medical emergencies and to maintain their competence in handling them when they go into practice.

The importance of adequate training of the paraprofessional, who is most instances, is the first person at the scene of the emergency, cannot be overemphasized. A number of standardized training programs have been developed, most notably the course developed by the Department of Transportation which consists of some 70 hours of training. I have been impressed by reports on the highly skilled paraprofessionals who have completed longer periods of training of 300 hours or more. These individuals, working in conjunction with a professional at the emergency room or other health facility by voice communication, are capable of providing lifesaving care and utilizing complex equipment essential to save the patient from death and protect him from serious disability.

The utilization of the former military medic in these systems seems particularly appropriate and I am pleased with efforts of communities to recruit these individuals for these positions.

In addition there is a need to develop and train other emergency medical personnel. Among members of the emergency medical services system staff are the emergency nurse, including the specially trained nursing associate who can carry out triage in certain circumstances and provide some element of treatment to the patient, the emergency physician's assistant, emergency medical technicians to work both in hospital emergency departments and at the scene of the emergency, emergency communications personnel knowledgeable about the development and operation of sophisticated communications networks, emergency department ombudsmen, community workers both within the emergency room and in the community who can relate to the needs of the patients as well as provide educational services on the use of emergency facilities.

In addition to the emergency medical personnel directly involved with patient care, I am impressed with the need for managers of emergency medical systems who can plan, develop, operate, and evaluate such systems. Ideally, these managers would have a background in both emergency health care and in health administration and management. Reports of the development of programs to educate such individuals at Ohio State University and at the University of Pennsylvania are very promising and I would hope their development will be pursued at other educational institutions.

A recent article which appeared in the Journal of the American College of Emergency Physicians, written by Dr. Joseph Fortuna, discusses the role of such a specialist.

This article deals with the need for the training of an individual to serve as the manager of a community emergency medical services system, and the activities being supported in the Nation's educational institutions to develop the emergency medical services manager, or as the article dubs him the "emergency health systems specialist."

The need for health managers or administrators is becoming more evident as medical services move from a nonsystem of fragmented care to one of coordinated and organized systems. The need for trained individuals to provide the expertise was recognized in S. 3441, passed by the Senate on August 16, which included authorization for support of management training in schools of public health. There is a need for these specialists in implementing a comprehensive emergency medical services system in a large community or a State.

I ask unanimous consent to have excerpts from his article printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1)

COMMUNICATIONS

Mr. CRANSTON. Mr. President, another requirement of any plan is the provision for a twenty-four hour communications system which provides the necessary linkage from the point of the emergency through a central point dispatching emergency personnel and vehicles, and on through all points of the system to the emergency medical facility and its highly specialized personnel and equipment. These communications systems should at the same time be compatible with the transmission of patient data to the critical care unit through radio and video transmission or other electronic monitoring systems.

In providing ready consumer access to an emergency medical services system, while the 911 system currently being advanced by the telephone companies within the United States is highly desirable, it is a time consuming and expensive process, and alternative courses of action should be considered by communities as an interim or substitute measure prior to the installation of a 911 system. Another major problem involved in consumer access to the communications system is the ability of the dispatch center to locate the emergency geographically, when the consumer is a child, or a stranger to an area and unable to identifiy his location. Areas of technology must be pursued so that future capabilities can be established to help the central dispatch point identify the location of the call.

TRANSPORTATION

Another requirement of an emergency medical services system is provision for transportation. Sufficient numbers of vehicles, equipped with the necessary lifesaving equipment, accompanied by well-trained emergency personnel and meeting standards of safety and patient care recommended by nationally recognized organizations must be a basic element of any system. In many communities such vehicles are in use already, sometimes provided by commercial ambulance companies, sometimes by public safety agencies, sometimes by voluntary agencies, and sometimes by the community hospital. Where such resources already exist and where they meet standards of equipment and personnel recommended by the Secretary, they should be incorporated into a program for comprehensive emergency medical services.

Transportation systems must be geared to the special geographical characteristics of the community. In some areas where road systems are inadequate or distances are great, the utilization of a helicopter has proven particularly appropriate in transporting emergency victims. The outstanding record achieved by the MAST pilot programs established in several communities is an example of the effectiveness of the helicopter as an element of an emergency medical services system. One of the great deterrents to greater utilization of helicopters is the heavy expense. I believe the involvement of public safety agencies, many of which utilize helicopters for other purposes, in the development of plans for community emergency medical services can offer opportunities for the joint use of this method of transport.

FACILITIES

A fourth major element in any system for the provision of emergency medical services is adequate facilities, conveniently and strategically located, and available for utilization on a twenty-four hour basis. For the most efficient operation of an emergency medical services system and for the most efficient utilization of scarce financial and professional resources, planning for these facilities is essential. The potential order which could result from the application of the recommendations for categorization of facilities made by the Commission on Emergency Medical Services of the AMA makes them well worth consideration.

Adoption of such systems in the communities would appear to provide a rational approach to the provision of emergency medical services while avoiding expensive and unnecessary duplication of equipment and facilities and poor utilization of scarce staff resources.

ADDITIONAL REQUIREMENTS

Other requirements of community plans include:

Access to specialized critical medical care units either within the community or in a neighboring community, and means of transfer to facilities and programs which can provide such followup care and rehabilitation as is necessary to effect the patient's recovery.

Assurance that anyone in need of emergency medical care will be provided such care without regard to ability to pay or prior inquiry as to financial situation or insurance coverage.

Provision for developing a program to cope with emergency medical services during mass casualties, natural disasters, or national emergencies.

Provision for a program of public education and information, stressing appropriate methods of medical self-help.

Provision for standardized patient recordkeeping systems.

ROLE OF COMPREHENSIVE HEALTH PLANNING AGENCIES

Since the 314(b) agency should be the logical entity to coordinate and plan for a well functioning health system, the proposed act requires involvement of the comprehensive health planning agencies established under section 314 of the Public Health Service Act in the development

and implementation of any programs for community emergency medical services. Indeed, to be eligible for a grant, a governmental unit or combination thereof would have to comprise at least the area covered by an areawide 314(b) planning agency unless the area proved to be incompatible to the development of a coordinated comprehensive system.

REPORTS AND RECORDS

A grantee must make such reports and maintain such records as the Secretary of HEW determines are necessary. To ensure that grants and contracts awarded under the provisions of the proposed act are directed towards the implementation of plans for emergency medical services systems, the Secretary is expected to make every effort to require periodic reporting on progress achieved in the development, establishment or expansion of components of such systems.

To assure the effectiveness of such systems, all components of an emergency medical services system must meet standards and criteria established in regulations by the Secretary.

The bill provides for two alternative award mechanisms—grants and contracts. The indefinite nature and need for flexibility in the development of plans for emergency medical services systems in any given area lends itself most appropriately to the grant mechanism. A similar approach is also preferred in training programs.

However, in the actual implementation of a plan for an emergency medical services system and the development of its components, the utilization of the contract mechanism has special applicability. The contract mechanism provides a greater degree of assurance that implementation of the plan will more closely follow the original purpose proposed in the application and provides for greater control over compliance with requirements and quality standards prescribed by the Secretary.

I believe and the committee has recommended that utilization of the contract mechanism must be subject to the same review and approval procedures as the grant mechanism and that flexibility should be sufficient to permit renegotiation of the contract should the local unit of government feel the original purpose for which the contract was awarded should be changed. Again any such renegotiation should be subject to the same review procedures as used in the grant mechanism.

INTERAGENCY TECHNICAL COMMITTEE

At the Federal level, the bill establishes an interagency technical committee to coordinate Federal programs and activities relating to emergency medical services. Many successes have been realized in the MAST programs through coordinated activities of the Department of Defense, Department of Transportation, and the Department of HEW. The Inter Agency Committee should result in further cooperative efforts at the Federal level. I hope that local community efforts also will be made to foster these coordinated arrangements at the local level.

NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

A National Advisory Council is established by the bill within HEW to review and advise on applications and to make recommendations to the Secretary on implementation of programs under the proposed act. Membership of this Council includes not only representatives from other Federal agencies, but also the Director of the National Institutes of Health Services and Mental Health Adminstration. I recognize that the development of effective emergency medical services systems will depend on the coordination of the resources of both the research and the services components of the Public Health Service and for that reason specifically included the directors of these units on the Advisory Council.

REPORT TO CONGRESS

The bill requires an annual report to Congress which shall include an evaluation of the adequacy of emergency medical services throughout the Nation and recommendations on legislation which would correct any deficiencies. The provision of emergency medical services is affected in some States by inflexible laws on licensure, malpractice and liability. This seems to be an appropriate area for study in the preparation of the report.

CONCLUSION

Mr. President, adoption of S. 3716 will insure the continuation and improvement of existing basic health programs and will provide opportunities for new programs to develop in the communities. I urge the full support of the Senate for the provisions of S. 3716.

I would like to express my admiration for the leadership provided in the development of this legislation by the distinguished Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee on Labor and Public Welfare, and by the distinguished Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health, as well as by the distinguished respective ranking committee and subcommittee minority members, the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER).

I would also like to express my deep appreciation for the excellent support provided by the staff of the Labor and Public Welfare Committee, Leroy Goldman, Stan Jones, Joe Perpich, and Jay Cutler, in the development of this bill.

EXHIBIT 1

EMERGENCY HEALTH SYSTEMS SPECIALIST—A PROPOSAL

(Excerpts)

(By Joseph A. Fortuna, M.D.)

It appears that much action has and is being taken to establish true systems of emergency medical services in which all the resources of the community, region or state can be integrated to increase the efficiency and effectiveness of these services.

WHO WILL MANAGE THE SYSTEM

What is not clear is the nature of the personnel who will be planning, developing and operating EMS systems. While the focus for such activities might vary in each community or state, and could be the local RMP, the areawide Comprehensive Health Planning Agency, the public health department, etc., or combination of these, what type or types of people can or should be engaged in such activities has not been worked out. Since any new federal legislation will undoubtedly include funds for support of training programs for EMS personnel, including managers of EMS systems, serious thought needs to be given to this question by the professional community now involved in EMS.

It is in this context that I am suggesting a new type of health professional. He (or she) would have the skills and knowledge of a professional trained in the treatment of acutely ill or injured patients (eg the emergency physician or nurse). He would also have the expertise of a professional who can organize and manage the delivery of health services (eg the health planner/administrator/manager). I would call such a professional an Emergency Health System Specialist (EHSS).

RESPONSIBILITIES

Being a clinician, the EHSS would be aware of and would keep current in the latest patient-care techniques. He could, therefore, view any EMS system he was planning and/or operating from the perspective of how and why such techniques are most effectively and efficiently utilized for the benefit of the individual patient. Also, as a clinician, the EHSS could relate more effectively to those other clinicians in the community who would, of necessity, be part of any EMS system being developed or operated. Since emergency medicine, unlike many other forms of practice, can be hour-related, it would be possible and, in fact, highly desirable for the EHSS to function as a clinician in the emergency department setting on a periodic basis.

Having expertise in the health administration area, the EHSS would be able to analyze the existing EMS system (or non-system) in an area using the sophisticated research and planning tools now available, to determine the optimum organization for the system. He would also be qualified to implement any plans he developed for an EMS system and even to operate the system, once established. Because of his credentials as a health administrator, the EHSS is more likely to gain acceptance of his efforts by health administrators than might the well-meaning physician or other health professional without administrative training whose plan may lack the sophistication such administrators are comfortable with.

What are the educational requirements for an EHSS? The answer, of course, is that there are many roads one could take to gain the needed competence. There are also many types of health professionals who may wish to enter this field including physicians, nurses, physicians assistants and others. Although I believe that avenues must be found for these other health professionals, I shall concentrate on the possible routes for physicians.

CLINICAL QUALIFICATIONS

The first requirement for physicians is that they have demonstrated competence in emergency medicine. Such competence could be achieved in several ways depending in large measure on the situation of the physician.

For the generalist or specialist in practice who is desirous of a second career, the answer might be a year of fellowship in emergency medicine or it might be a series of carefully selected uniconcept courses on various aspects of EMS.

The resident-in-training in a specialty other than EMS could either take a "research year" during his residency or add time after his residency as an EMS fellow.

The intern or graduating medical student desirous of becoming an EHSS might enter one of the new EMS residency training programs, such as those offered at the Univer-

sity of Cincinnati General Hospital, the University of Southern California Medical School, the Medical College of Pennsylvania or Northwestern University Medical School, with the understanding that work in the administrative area was to be worked into the curriculum.

The advantage of this last type of program is that it would prepare the physican specifically for the task of providing clinical emergency services in a training setting which takes into account all of the innovation in technology and manpower in the field. Another advantage is that often such programs are offered in the context of a department of emergency medicine in the medical school which fosters an academic approach to emergency medicine and, at the same time, offers a needed educational resource to the physicians currently in the geographic area. Another possible route for the physician still in the early stages of training would be a residency in community medicine. Such a residency might well serve as the focus for the entire EHSS program, providing the candidate with an administrative credential in the MPH or its equivalency as well as providing him with up to one full year of purely clinical EMS activity. A third year of this program could be spent in helping to plan, establish and operate an EMS system. Two such residency programs will begin in the Fall—one at Ohio State University and one at the University of Pennsylvania.

ADMINISTRATIVE TRAINING

How does the physician go about obtaining training in the administrative arena? The answer to this question is even less specific. It varies not only with the stage of clinical development of the candidate but also with the desired scope of administrative activity. Whenever possible, however, the course work in all programs for a degree in health administration should be integrated on a real-time basis with the clinical activity, since the clinical setting presents an excellent laboratory for developing and testing ideas and concepts discussed in the classroom.

Several degree programs would offer the needed coursework with some being more flexible than others. Among these are the MPH or its equivalency, the master's degree in comprehensive health planning, the MBA in health care administration and the master's degree in health care administration or in hospital administration. Any academic program should be focused on EMS and should include coursework in related fields such as law, sociology, public safety, public administration, public relations, etc.

With the aforementioned training, the candidate should feel comfortable with his ability to plan, develop and operate a system of emergency medical services and with integrating such a system into the total health system. He will also be conversant with the related legal, governmental and sociological problems which may arise.

The total EMS system concept is becoming more of a reality every day. I believe we need the professional emergency health systems specialist to most effectively plan, develop and manage the elements of the overall system.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken from neither side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time not charged to either side.

The PRESIDING OFFICER. There is no time involved. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. TUNNEY. Mr. President, I would like to ask the distinguished Senator from Massachusetts——

The PRESIDING OFFICER. Debate is not in order. All time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period of 3 minutes to conduct a colloquy.

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

Mr. TUNNEY. I would like to ask the distinguished Senator from Massachusetts what his attitude is toward a bill, S. 3894, which I introduced on August 8, 1972. S. 3894 would earmark one-quarter of 1 percent of all funds authorized pursuant to section 301 of the Public Health Service Act for an analysis of the social implications of health research.

The reason that I ask this question is because I have become deeply concerned about the social application of research work that is being done in the area of biomedicine. I am thinking of biomedical research which could have extraordinary repercussions on the human race, research directed toward such objectives as monogenic gene therapy, in vitro fertilization, cloning, and polygenic gene therapy. It seems to me that we have a desperate need to have a far greater understanding at the public level of what is being done with the funds that we are utilizing for research. Because we are expending public tax dollars, the public is entitled to know and to understand what the impact will be of the research that is being pursued.

I recognize that the committee has not had an opportunity to hold hearings on this measure, and I realize that, in the absence of that opportunity, it would not be appropriate at this time to offer S. 3894 as an amendment to this bill. But I wonder if the Senator from Massachusetts could tell me what his attitude is toward holding hearings on S. 3894 in the near future.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we may have 3 more minutes.

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

Mr. KENNEDY. Mr. President, this point is extremely important and entirely legitimate. It is proper that Senators have a legitimate concern for all the social and ethical implications raised by biomedical research.

Our Health Subcommittee considered Senate Joint Resolution 75, which would provide, over a 2-year period, for research in the whole area of the societal and ethical implications of biomedical research. And I think that would be related to the kind of questions the Senator from California has raised about genetic engineering and these other areas.

That resolution has passed the Senate and is now before the House of Representatives, and I would hope that they would give it prompt and favorable consideration. I would think that would be an extremely useful and important effort by those who are concerned about this type of research and its consequences.

Second, I believe that the Secretary of Health, Education, and Welfare under section 513, of the Public Health Service Act, allocates approximately 1 percent of all the funds under the Public Health Service for evaluation of the various programs, which could certainly be considered to fall within the kind of area of concern that the Senator from California has mentioned.

I would join with the Senator from California in asking the Secretary of HEW to move into this area under the authority of section 513 of the Public Health Service Act, and if he does not feel he has the appropriate kind of legislative authority to do so, I would join with the Senator from California in seeking to provide that kind of authority during the next session of Congress.

I hope the Senator from California will join with me in a letter to the Secretary, asking whether, under his interpretation, section 513 would provide the legislative authority to do so, and if it would, to indicate our desire that he begin such evaluation, and if not, to work with him in the next session of Congress to make sure he is given such authority.

Mr. TUNNEY. I appreciate the Senator's statement on that point. I think it is important, if we are going to use taxpayer dollars for this kind of biomedical research, that there be a component of technology assessment, to evaluate what the social application of such research.

My study of this area leads me to believe that a clear public policy is imperative with regard to the social implications of biomedical research. A clearer public understanding of the questions raised by this research is imperative. That is why I introduced S. 3894. That is why I have asked for early consideration of these

issues and that is why I am pleased that the distinguished Senator from Massachusetts has expressed an interest and concern with the questions of technology assessment raised by S. 3894.

Mr. KENNEDY. Finally, Mr. President, I just want to say that an Office of Technology Assessment has been developed. That was a Senate bill introduced by the Senator from North Carolina (Mr. JORDAN). It passed the House, and there will be a conference on it tomorrow.

That will be another resource available to Congress to study these types of new and troublesome areas. It will offer a resource we could use to address ourselves to these needs. I urge that that be one of the first priorities when that measure becomes effective.

The PRESIDING OFFICER. The time of the Senator has expired.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West VIRGINIA (Mr. ROBERT C. BYRD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROBERT C. BYRD) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) and the Senator from Florida (Mr. GURNEY) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend the Interparliamentary Union meetings.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Wyoming (Mr. HANSEN) are detained on official business.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 78, nays 0, as follows:

[No. 460 Leg.]

YEAS—78

Aiken	Ervin	Moss
Allen	Fannin	Nelson
Anderson	Fong	Packwood
Beall	Fulbright	Pastore
Bellmon	Gambrell	Pearson
Bennett	Gravel	Pell
Bentsen	Griffin	Percy
Bible	Harris	Proxmire
Boggs	Hart	Randolph
Brooke	Hatfield	Ribicoff
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Hruska	Schweiker
	Hughes	Scott
Cannon	Humphrey	Smith
Case	Inouye	Spong
Chiles	Jackson	Stennis
Church	Javits	Stevens
Cook	Jordan, Idaho	Stevenson
Cooper	Kennedy	Symington
Cotton	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tunney
Dole	Mathias	Weicker
Dominick	McClellan	Williams
Eagleton	McIntyre	Young
Eastland	Mondale	
Edwards	Montoya	

NAYS—0

NOT VOTING—22

Allott	Hansen	Muskie
Baker	Hartke	Saxbe
Bayh	Jordan, N.C.	Sparkman
Brock	McGee	Stafford
Buckley	McGovern	Taft
Byrd, Robert C.	Metcalf	Tower
Goldwater	Miller	
Gurney	Mundt	

So the bill (S. 3716) was passed, as follows:

S. 3716

An act to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower and community mental health centers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Facilities, Manpower, and Community Mental Centers Act of 1972".

TITLE I—EXTENSION OF TITLE VI PROGRAMS

PART A—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

EXTENSION OF ASSISTANCE UNDER TITLE VI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 101. Section 601 of such Act is amended to read as follows:

"SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

"(a) for the fiscal year ending June 30, 1973, and each of the next two fiscal years—

"(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) $100,000,000 for grants for the construction of public or other nonprofit outpatient facilities; and

"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

"(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $160,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(c) for grants for modernization of facilities referred to in paragraphs (a) and (b) $150,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(d) $100,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for grants for modernization of facilities referred to in paragraphs (a) and (b) which are—

"(1) located in metropolitan areas having a population of 500,000 or more persons, and

"(2) intended to serve a broadened population within such metropolitan area."

EXTENSION OF LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITAL AND OTHER MEDICAL FACILITIES

SEC. 102 (a) (1) Section 621(a)(1) of the Public Health Service Act is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(2) Paragraph (2) of such section is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(b) Section 622(b) of the Public Health Service Act is amended by striking out the phrase "ending before July 1, 1973."

(c) Section 631 of the Public Health Service Act is amended by striking out "1971." and inserting in lieu thereof "1973.".

(d) (1) The title of part C of title VI of the Public Health Service Act is amended to read as follows:

"PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS AND DEVELOPMENT OF AREA EMERGENCY MEDICAL SERVICES SYSTEMS"

(2) Section 633 of such Act is amended to read as follows:

"AUTHORIZATION

"SEC. 633. To assist in, improve, and expand the provision of adequate emergency medical services in the Nation for the treatment of accident victims, victims of sudden illness, and handling of other medical emergencies there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $150,000,000 for the fiscal year ending June 30, 1975, for special project grants and contracts for the planning and development or expansion of comprehensive area emergency medical services systems. Sums made available under this section may be used for construction, training and manpower development, communication, transportation, public education, coordination of services and facilities and other components necessary for the implementation of a plan submitted in accordance with section 635."

(3) Part C of such title is further amended by adding at the end thereof the following new sections:

"ELIGIBILITY FOR GRANTS AND CONTRACTS

"SEC. 634. Funds appropriated pursuant to this part shall be available for grants and contracts by the Secretary, after consultation with the National Emergency Medical Services Advisory Council established by section 638, and funds available for grants and contracts under section 633 shall be provided on a matching basis of up to 75 per centum in accordance with criteria of need as determined by the Secretary pursuant to regulations he shall prescribe, to States, political subdivisions, or regional arrangements, compacts, or consortiums comprising the governmental jurisdictions for at least those areas included in a standardized metropolitan statistical area (as determined by the Office of Management and Budget) in the case of programs to be carried out in such standardized metropolitan statistical areas, presenting a plan for the provision of comprehensive and coordinated emergency medical services for a geographical area which encompasses an area at least congruent with an areawide comprehensive health planning agency as established under section 314(b) of this Act or multiples of such area (unless the Secretary determines that such area cannot feasibly operate under a single plan in which event he may approve a plan submitted for a portion of such area), which plan must be approved by the Secretary and meet requirements consistent with the provisions of sec-

tion 635 set forth in regulations prescribed by the Secretary.

"PLANS

"SEC. 635. Each plan submitted pursuant to section 634 must include the following—

"(a) reasonable assurance that there has been or will be established in or for the area with respect to which such grant is sought, an area emergency medical services planning council pursuant to the provisions of section 636;

"(b) proposals for programs (carried out in coordination with education and training programs assisted under titles III, VII, VIII, and IX of this Act and in a manner consistent with the appropriate provisions of such applicable title) for the training and continuing education of health professionals and paraprofessionals (with priority for the recruitment and training of veterans of the Armed Forces of the United States with training or experience in the health care field) in the provision of emergency medical services to victims of accident and sudden illness which programs must meet criteria established by the Secretary in regulations and, in the case of the training of paraprofessionals, must include supervised clinical training for at least one-half of the program;

"(c) provision for a communications system including, at least, a central, areawide communication network linked with other appropriate area, State, and national networks, and with maximum accessibility for the public through a universal emergency telephone number and other means, which system shall allow transmission of information by voice, telemetry, or other electronic method and shall provide for cross-frequency patching capability;

"(d) provision for an emergency medical services transportation system, which shall include such air borne and water borne transportation as is necessary to meet the individual characteristics of the area;

"(e) provision for the establishment of easily accessible, continuously operational emergency medical service facilities in sufficient numbers and situated at strategic locations in the area to meet the emergency medical service needs of the area;

"(f) provision for emergency access to specialized critical medical care units in the area, including provision for the necessary transportation systems for such access, and, where such resources are nonexistent or inadequate in the area, for access to such units in a neighboring area where access is feasible in terms of time and distance;

"(g) assurance that necessary emergency medical services, to the maximum extent feasible, shall be provided to all patients requiring services and shall be provided without regard to, or prior inquiry as to, ability to pay;

"(h) provision for developing for submission for approval by the Secretary, within one year of receipt of funds under this part, a plan assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies;

"(i) provision for transfer to facilities and programs providing such followup care and vocational rehabilitation as is necessary to reflect the maximum recovery and restoration of the patient;

"(j) provision for a program of public education and information in the area served (taking into account the needs of visitors to the community to know or be able to learn immediately the means of obtaining emergency medical services), stressing appropriate methods of medical self-help;

"(k) provision for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area; and

"(l) provision for a standardized patient record-keeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient, from initial entry into the system through discharge from the emergency medical services system, and shall, to the maximum feasible extent, be consistent with ensuing patient records used in followup treatment and rehabilitation of the patient.

"AREA EMERGENCY MEDICAL SERVICES PLANNING COUNCIL

"SEC. 636. (a) The composition of the Area Emergency Medical Services Planning Council to be established in accordance with the plan submitted under section 635 shall include representatives of the State agency and appropriate areawide health planning agency or agencies (if any) established under section 314, of the regional medical program established under title IX of this Act in the area, of all public safety agencies having responsibilities within the area, of hospital councils, public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health or health education, of the local government or governments or units thereof exercising jurisdication in the area, of uniformed services of the Federal Government operating installations in the area, of the Veterans' Administration medical facilities in the area, of communications networks, mass media, and public utilities, of firms, organizations, and other entities having responsibilities related to the provision of emergency medical services, and representatives of the general public who are not related to the provision of health care and who shall comprise at least one-third of the Council's voting membership.

"(b) The functions of such Council shall include development in consultation with the congruent areawide comprehensive health planning agency or agencies established pursuant to section 314(b), of the plan described in section 635(f) for areawide emergency medical services and shall include continuous monitoring and evaluation of the operation of the emergency medical service system with a view to making recommendations for the improved effectiveness of its operation.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 637. The Secretary shall establish an Interagency Technical Committee on Emergency Medical Services which shall be responsible for coordinating those aspects and resources of all Federal programs and activities relating to emergency medical services to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain the necessary coordination and effectiveness of such programs and activities. The Secretary or his designee shall serve as Chairman of the Committee, which shall include appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Academy of Sciences, the National Science Foundation, the Office of Science and Technology, the Federal Communications Commission, the Office of Emergency preparedness, and such other Federal agencies, and parts thereof (including components of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting emergency medical services functions or responsibilities.

"NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

"SEC. 638. (a) The Secretary shall establish a National Emergency Medical Services Advisory Council with which he shall consult on a continuing and regular basis in administering this part. The Council shall consist of the Secretary or his designee, who shall serve as Chairman, the Director of the National Institutes of Health, and the Administrator of the Health Services and Mental Health Administration in the Department of Health, Education, and Welfare, all other members of the Interagency Technical Committee established under section 637, and eighteen members appointed by the Secretary, nine of which appointed members shall be members of the general public who are not related to the provision of emergency medical services, and nine shall be individuals experienced in the provision or development of, or the training of personnel to provide emergency medical services.

"(b) The functions of the Council shall be to review and advise the Secretary, through a subgroup which it shall appoint on applications received for grants and contracts under this part and to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"(c) Each appointed member of the Council shall be appointed for a term of four years except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed after the effective date of this part, six shall be appointed for a term of four years, six shall be appointed for a term of three years, and six shall be appointed for a term of one year, as designated by the Secretary at the time of the appointment. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) A vacancy in the Council shall not affect its activities, and fifteen members of the Council shall constitute a quorum.

"(e) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"SEC. 639. (a) No application for a grant or contract under this part shall be approved unless—

"(1) the State comprehensive health planning agency established pursuant to section 314(a) and the areawide health planning agency established pursuant to section 314(b) have had an opportunity to comment thereon, within ninety days of the submission to those agencies of copies of such application, and the applicant has submitted to the Secretary a reply to any such comments with a view toward accommodating any objectives by and remedying any differences with such agency or agencies.

"(2) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this part.

"PAYMENTS AND CONDITIONS

"SEC 640. (a) Grants and contracts under this part shall be paid in advance or by way of reimbursement in such installments and on such conditions as in the judgment of the Secretary will best carry out the provisions of this part.

"(b) Nothing in this part shall limit or otherwise restrict the use of funds which are granted under other provisions of this Act or other Federal law and which are available for the conduct of medical emergency transportation and service programs from being used in connection with programs assisted through grants and contracts under this part where the former programs meet the stand-

ards and criteria established by the Secretary under this part.

"(c) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(d) No grants or contracts may be made under this part in support of an emergency medical service system except where all components of such system meet standards and criteria established in regulations by the Secretary after taking into account standards established by appropriate national professional or technical organizations.

"REPORTS

"SEC. 640A. The Secretary shall prepare and submit to the Congress, one year after enactment of this part and every year thereafter, a report on the administration of this part, which shall include an evaluation of the adequacy of the provision of emergency medical services throughout the Nation and the extent to which the needs for such services are being adequately met through assistance under this part and otherwise and his recommendation for any legislation necessary to promote the provision of and provide emergency medical services throughout the Nation at a level adequate to meet such needs."

STATE ALLOTMENTS

SEC. 103. Paragraph (1) of section 602(a) of the Public Health Service Act (42 U.S.C. 291(b)), as amended, is amended to read as follows:

"(1) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated under subparagraph (1), (2), or (3) of paragraph (a), or under subsection (b), of section 601, for grants for construction of, respectively (A) public or other nonprofit facilities for long-term care, (B) public or other nonprofit outpatient facilities, (C) public or other nonprofit rehabilitation facilities, and (D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the following factors: (i) the population, (ii) the square of the per capita income, and (iii) the extent of the need for construction of the facilities for which grants from the allotment are to be made, of the respective States. For purposes of applying the preceding sentence, the factor referred to in clause (i) thereof shall be assigned a value equal to the value assigned to the factor referred to in clause (ii) thereof, and the value assigned to the factor referred to in clause (iii) shall be assigned a value equal to one-half of the value assigned to the factor referred to in clause (i) or (ii) thereof."

LOAN LIMITATIONS

SEC. 104. Part A of title VI of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 611. In any fiscal year no loan guarantee may be made under this part and no agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement which would cause the cumulative total of—

"(1) the principal of the loans guaranteed under this title in such fiscal year, and

"(2) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year,

to exceed the amount of grant funds obligated under this title in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year."

REGIONAL MEDICAL PROGRAM

SEC. 105. (a) Section 902 of such title is amended by inserting "(including area health education and service centers)" immediately after "regional medical program" in subsection (a).

(b) Title IX of such Act is further amended by adding at the end thereof the following new section:

"AREA HEALTH EDUCATION AND SERVICE CENTERS

"SEC. 911. Notwithstanding limitations with regard to the diseases with which this title is concerned, the Secretary is authorized to make grants to and enter into contracts with regional medical programs for the purpose of developing area health education and service centers.".

(c) The title of title IX of the Public Health Service Act is amended to read as follows:

"TITLE IX—REGIONAL COOPERATIVE ARRANGEMENTS FOR EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATION TO IMPROVE HEALTH SERVICES AND MEDICAL CARE"

AVAILABILITY OF APPROPRIATIONS

SEC. 106. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this Act, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall remain available for obligation and expenditure until the end of such fiscal year.

CONTINUATION OF SUPPORT OF NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 107. (a) Section 305(a)(1)(H) of the Public Health Service Act is amended to read as follows:

"(H) a vital statistics system to include family formation, growth, and dissolution; and".

(b) Section 305(a)(2) of such Act is amended by inserting immediately before the period at the end of the first sentence the following: "; to set standards, to establish quality control systems, to develop uniform data collection forms, definitions, and procedures, and to provide technical assistance and training for the collection and compilation of such statistics".

(c) Section 305(b) of such Act is amended by adding at the end thereof the following new sentence: "Such system is to be implemented through contracts and grants in a continuing program of sharing costs with States and local governments to maintain data systems which collect and provide comparable data for national purposes."

(d) Section 305(d) of such Act is amended to read as follows:

"(d) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1973; and $35,000,000 for the fiscal year ending June 30, 1974.".

CONTINUATION OF ASSISTANCE FOR ALLIED HEALTH PROFESSIONS

SEC. 108. (a) Section 791(a)(1) of the Public Health Service Act is amended to read as follows:

"SEC. 791. (a)(1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions or replacement or rehabilitation of existing facilities for such centers $40,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974;".

(b)(1) Subsection (a)(1) of section 792 of such Act is amended to read as follows:

"SEC. 792. (a)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974;".

(2) Subsection (b) of such section is amended to read as follows:

"(b) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves."

(3) Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for grants and contracts for special projects under this subsection."

(c) Section 793(a) of such Act is amended by striking out all of the first sentence through "1973" and inserting in lieu thereof the following:

"SEC. 793. (a) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974; to cover the costs of traineeships for the training of allied health professions personnel to teach health service technicians or in any of the allied health professions to serve in any of such positions in administrative or supervisory capacities or to serve in allied health professions specialties determined by the Secretary to require advanced training."

(d) Subsection (b) of section 794A of such Act is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this section there are authorized to be appropriated $1,250,000 for the fiscal year ending June 30, 1973; and $1,250,000 for the fiscal year ending June 30, 1974;".

(e) Subsection (f) of section 749B of such Act is amended to read as follows:

"(f) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974;".

(f) Subsection (e) of section 794C of such Act is amended to read as follows:

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $6,000,000 for the fiscal year ending June 30, 1974;".

(g) The first sentence of subsection (c) of section 794D of such Act is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1974, to continue or complete their education."

ALLIED HEALTH EDUCATION COST STUDY

SEC. 109. Section 797 of the Public Health Service Act is amended to read as follows:

"STUDY OF COSTS OF EDUCATING STUDENTS IN THE VARIOUS ALLIED HEALTH PROFESSIONS

"SEC. 797. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of the various allied health professions which lead to a certificate of degree or other appropriate evidence of completion of a course of training for practice in the various allied health professions.

"(2) Such studies shall be completed and an interim report thereon submitted not later than March 30, 1974, and a final report not later than January 1, 1975, to the Secretary, the Committee on Labor and Pub-

lic Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such studies shall develop methodologies for ascertaining the national average annual per student educational costs and shall, on such basis, determine such costs for school years 1972–1973, 1973–1974, and the estimated costs for school year 1974–1975 in the respective disciplines. The study shall also indicate the extent of variation among schools within the respective disciplines in their annual per student educational costs and the key factors affecting this variation. The studies shall employ the most recent data available from the allied health professional schools in the country at the time of the study.

"(4) Such studies shall also describe national uniform standards for determining annual per student educational costs for each allied health professional school in future years and estimates of the cost to such schools of reporting according to these uniform standards.

"(5) The report shall also include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants under the Public Health Service Act to each allied health professional school.

"(b)(1) The Secretary shall request the Institute of Medicine of the National Academy of Sciences, to conduct such studies under an arrangement under which the actual expenses incurred by such Institute in conducting such studies will be paid by the Secretary. If the Institute of Medicine of the National Academy of Sciences, is willing to do so, the Secretary shall enter into such an arrangement with such Institute for the conduct of such studies.

"(2) If the Institute of Medicine of the National Academy of Sciences, is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (a)(2)."

SEX DISCRIMINATION

SEC. 110. Section 799A of part H, title VII of the Public Health Service Act is amended by adding at the end thereof the following new sentence: "This section shall not apply until July 1, 1978, in the case of a school of medicine which has begun the process of changing from being an institution which admits only female students to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 111. Sections 767, 768, 769, 769A, and 769B (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

PART B—AMENDMENT TO THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT

COMMUNITY MENTAL HEALTH CENTERS

SEC. 112. (a) Section 201 of the Community Mental Health Centers Construction Act is amended to read as follows:

"SEC. 201. There are authorized to be appropriated for grants for facilities of public and other nonprofit community mental health centers under this title $100,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 207 of such Act is amended to read as follows:

"SEC. 207. No grant may be made under any provision of the Public Health Service Act for any fiscal year, for construction of any facility described in this title unless the Secretary determines that funds are not available, under this title to make a grant for the construction of such facility.".

(c) Section 224(a) of such Act is amended to read as follows: "There are hereby authorized to be appropriated to enable the Secretary to make initial grants to community mental health centers, under the provisions of this part, $60,000,000 for the fiscal year ending June 30, 1973; $90,000,000 for the fiscal year ending June 30, 1974; and $100,000,000 for the fiscal year ending June 30, 1975. For the fiscal year ending June 30, 1973, and each of the thirteen succeeding fiscal years there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant by the year for which sums are being appropriated under this sentence.".

(d) Section 246 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(e) Section 247(d) of such Act is amended to read as follows:

"(d) To carry out the purposes of this section there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $60,000,000 for the fiscal year ending June 30, 1974; and $60,000,000 for the fiscal year ending June 30, 1975."

(f) Section 252 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(g) Section 253(d) of such Act is amended to read as follows:

"(d) To carry out the provisions of this section there are authorized to be appppropriated $14,000,000 for the fiscal year ending June 30, 1973; $14,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975.".

(h)(1) Section 261(a) of such Act is amended by inserting after "June 30, 1973," the following: "$90,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975,".

(2) Section 261(a) of such Act is further amended by striking "construction and staffing of facilities" and inserting in lieu thereof "facility and operating costs of facilities".

(3) Section 261(b) of such act is amended to read as follows:

"(b) There are authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next fifteen years such sums as may be necessary to make grants for operating costs with respect to any project under part C or D for which an operating grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1975."

(i)(1) Section 271(d) of such Act is amended to read as follows:

"(d)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $45,000,000 for the fiscal year ending June 30, 1974; and $55,000,000 for the fiscal year ending June 30, 1975; for grants under this part for facilities and for initial grants under this part and for training and evaluation under section 272.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next twelve fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which grants for operating costs were made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975."

(2) Section 271 (a) of such Act is amended by striking the words "construction of" and "of compensation of professional and technical personnel".

(3) Section 271(b)(3) of such Act is amended by striking the words "construction of".

(4) Section 271 (c) of such Act is amended by striking the words "costs of compensation of professional and technical personnel" and inserting in lieu thereof the words "operating costs".

(j) Section 256(e) of such Act is amended to read as follows:

"(e) There are authorized to be appropriated to carry out this section $60,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975;".

(k)(1) Section 220(b) is amended by striking in paragraph (1) the word "eight" and inserting in lieu thereof "twelve" and by striking the word "four" and inserting in lieu thereof "eight".

(2) Paragraph (2) of such subsection is amended by striking the word "three" immediately after the word "next" and inserting in lieu thereof "seven".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(3) In any year where funds appropriated do not reach the level required to fully fund applications for assistance under paragraphs (1) and (2), the Secretary shall distribute the funds available as follows: 30 per centum for applicants under paragraph (1) and 70 per centum for applicants under paragraph (2)."

(l)(1) Section 220(a) of such Act is amended by striking the words "of professional and technical personnel" and inserting in lieu thereof the words "for operational costs".

(2) The caption for part B of such Act is amended to read as follows:

"PART B—GRANTS FOR INITIAL COSTS OF OPERATION OF CENTERS"

(m) Section 220 of such Act is further amended by adding at the end thereof the following:

"(d) Notwithstanding subsection (b) of this section, the Secretary may make additional grants to each center equal to 5 percentum of such costs, which maintains a bona fide program under parts, C, D, and G, for each such program. In no case shall grants exceed 100 per centum of such costs for any project."

(n)(1) Section 221(a) of such Act is amended by adding immediately after paragraph (5) the following new paragraphs:

"(6) the services to be provided by the center are made available to any health maintenance or health service organization if in the catchment area for such center;

"(7) such center has a program whereby it screens, and where practicable provides treatment for, persons within its catchment area, who may be admitted to a State mental health facility;

"(8) such center has a program for the followup care of persons within its catchment area, who are discharged from a State mental health facility."

"(2) Section 221(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(o) Part B of such Act is amended by adding at the end thereof the following new section:

"GRANTS FOR CONSULTATION SERVICES

"SEC. 225. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, and other persons with drug abuse and drug dependence problems, or facility for mental health of children, or mental health of the elderly to which a grant under part B, C, D, F, or G, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1972, to assist it in meeting a portion of the operating costs the Secretary may, with respect

to such center or facility, make a grant under this section for consultation services in addition to such other operating grants for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection may not exceed 100 percent of such costs.

"(c) For the purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975."

(p) (1) Section 242 (a) of such Act is amended by striking the words "costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel" and inserting in lieu thereof the word "operating cost (determined pursuant to regulations of the Secretary)";

(2) Section 242(b)(1) is amended by striking the word "three" and inserting in lieu thereof "seven" and striking the word "eight" and inserting in lieu thereof "twelve";

(3) Section 242(b)(2) is amended by striking the word "three" and inserting in lieu thereof "seven";

(4) The section caption of section 242 of such Act is amended by striking the word "STAFFING" and inserting in lieu thereof "OPERATING."

(q) Section 243(a) of such Act is amended by striking the words "compensation of professional and technical personnel" and inserting in lieu thereof "operating expenses";

(r) Section 244 of such Act is amended by striking the words "a project for the construction or initial staffing" and inserting in lieu thereof the words "facility and operating costs".

(s) (1) Section 251(a) of such Act is amended by striking the words "of construction" and "of compensation of professional and technical personnel" and inserting in lieu of the latter the words "operating costs".

(2) Section 251(c) of such Act is amended by striking the words "costs of compensation of professional and technical personnel" and inserting in lieu thereof the words "operating costs".

(3)(A) Section 256(b)(1) of such Act is amended by striking the word "eight" and inserting in lieu thereof "twelve".

(B) Section 256(b)(2) of such Act is amended by striking the word "three" wherever it appears and inserting in lieu thereof the word "seven".

(4) Section 254 of such Act is amended by striking the words "a project for the construction or initial staffing of a" and inserting after the word "facility" the words "operating costs".

MENTAL HEALTH OF THE ELDERLY

SEC. 113. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE ELDERLY

"GRANTS FOR TREATMENT FACILITIES

"SEC. 281. (a) Grants from appropriations under section 282(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of facilities to provide mental health services for the elderly within the States, and (2) to assist them in meeting a portion of the operating costs (determined pursuant to regulations of the Secretary) of a facility for mental health of the elderly assisted with a grant made under part A or this part or for the operation of new services for mental health of the elderly in an existing facility.

"(b)(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the elderly.

"(2) The grant program for costs of operating facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 70 per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for operating costs may not exceed the percentages of such costs, and may be made only for the periods prescribed for grants for such costs under section 242.

"(d)(1) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975, for grants under this part for facilities and for initial grants under this part for the operating expenses and for training and evaluation grants under section 282.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the next twelve fiscal years, such sums as may be necessary to continue to make grants with respect to any project under this part for which an operating grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975.

"TRAINING AND EVALUATION

"SEC. 282. The Secretary is authorized, during the period beginning July 1, 1973, and ending with the close of June 30, 1975, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of the elderly; or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the elderly within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

TITLE II—MEDICAL LIBRARY ASSISTANCE

SEC. 201. That this title may be cited as the "Medical Libraries Act of 1972".

EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

SEC. 202. (a) Section 393(h) of the Public Health Service Act is amended to read as follows:

"(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $17,000,000 for the fiscal year ending June 30, 1975, $19,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977."

(b) The first sentence of section 394(a) of such Act is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b)(2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, $4,000,000 for the fiscal year ending June 30, 1974, $6,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977."

(c)(1) Section 395(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

(2) Section 395(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

(d) Section 396(a) of such Act is amended to read as follows:

"SEC. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $11,500,000 for the fiscal year ending June 30, 1977."

(e) The first sentence of section 397(a) is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b)(6) there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, $6,500,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $9,500,000 for the fiscal year ending June 30, 1977."

(f) The first sentence of section 398(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

TITLE III—EMERGENCY HEALTH PERSONNEL ACT AMENDMENTS

SEC. 301. That this title may be cited as the "Emergency Health Personnel Act Amendments of 1972".

SEC. 302. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the "Corps") which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages."

(b) Section 329(b) of such Act is amended to read as follows:

"(b)(1) The Secretary shall (a) designate those areas which he determines have critical health manpower shortages, (B) conduct information programs in such areas as may be necessary to inform the public and private health entities serving those areas of the benefits available under this Act and to encourage their application for such benefits, and (C) assist such entities to apply for the assignment of Corps personnel and other benefits authorized under this Act.

"(2)(A) Upon request of a State or local health agency, or any public or nonprofit private health entity in an area designated by the Secretary under paragraph (1)(A), and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary may assign personnel as are needed for that area, the Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for all persons residing in such areas except that where all of the foregoing conditions are met in an area, except certification of need by the State and local medical, dental, or other health societies, and the Secretary finds from

all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, then the Secretary may, after consultation with the appropriate medical, dental, or other health societies, assign such personnel to that area. Corps personnel shall be assigned to such area on the basis of the extent of the need for health services within the area and without regard to the ability of the residents of the area to pay for health services.

"(B) In providing health care and services under this section, Corps personnel shall utilize the facilities and organizational forms adapted to the particular needs of the area and shall make services equally available to all persons in such area regardless of the ability of such person to pay for the care and services provided in connection with—

"(i) direct health care programs carried out by the Service;

"(ii) any direct health care programs carried out in whole or in part with Federal financial assistance; or

"(iii) any other health care activity which is in furtherance of the purposes of this section.

"(C) Any person who receives health care or services provided under this section shall be charged for such care or service at a rate and in a manner (including prepayment, capitation, incentive reimbursement, fee-for-service, or other basis) established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect on a capitation, prepayment, incentive reimbursement, fee-for-service, or other basis from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and funds allocated or obligated under this section shall not be dependent on or related to such fees collected in any way.

"(D) Notwithstanding the provisions of the Federal Property and Administrative Services Act (40 U.S.C. 471), the Secretary may transfer the title to any or all facilities, equipment, and supplies, belonging to the Service and being utilized by the Corps in a medically underserved area designated by the Secretary under subsection (a) to any public or private nonprofit institution which the Secretary determines will conform to minimum standards of operation prescribed by him. In a case where the Secretary determines, after a hearing on the record, that such real or personal property is not being utilized in conformance with such minimum standards, title shall revert (after payment of proper compensation for facility improvements, if any) to the United States. This paragraph shall not apply to any hospital or clinical facilities operated by the Service prior to December 31, 1971."

(c) Section 329(c) of such Act is amended by striking out "Service" and inserting in lieu thereof "Corps".

(d) Section 329(d) of such Act is amended—

(1) by striking out "Service" in the first sentence and inserting in lieu thereof "Corps", and by inserting before the period at the end of such sentence the following: ", except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability of care or services by Corps personnel in the area, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area, but only if such utilization shall assure the continual provision of care to persons entitled to care and treatment at such facilities at such time":

(2) by striking out "If there are no such facilities in such area" in the second sentence and inserting in lieu thereof "If there are no health facilities in or serving such area";

(3) by adding after the second sentence the following new sentence: "In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals."; and

(4) by inserting "(1)" after "(d)" and by adding at the end of the following:

"(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"(3) (A) For the purpose of recruiting persons for the Corps who have gained experience in the provision of health services as a direct result of specialized military training, the Secretary, in cooperation with the Department of Defense and the Veterans Administration shall develop a list of persons having such experience.

"(B) In the assignment of personnel to designated health manpower shortage areas, the Secretary shall give priority to persons recruited from the list developed under paragraph (A), with respect to such individuals' desires."

(e) Section 329(f) of such Act is amended (1) by striking out "Service" in paragraphs (1) and (3) and inserting in lieu thereof "Corps", and (2) by striking out "to select commissioned officers of the Service and other personnel" in paragraph (2) and inserting in lieu thereof "to select personnel of the Corps".

(f) Subsection (g) of section 329 of such Act is redesignated as subsection (k) and the following new subsections are inserted after subsection (f) of such section:

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application.

"(h) Section 5532 of title 5, United States Code shall not apply to a retired officer of a regular component of a uniformed service who holds a full-time position with the Corps, during the time he holds such position.

"(i) The Secretary may from time to time and for such period as he deems advisable, secure the assistance and advice of experts, scholars, and consultants, including the services of advertising and other public information specialists, to foster, promote, and improve the image of the Corps with regard to the provision of health services and with the further aim of emphasizing recruitment of new and retention of present members of the Corps.

"(j) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip."

(g) Section 329 (k), as redesignated by this Act, of such Act is amended by striking out "and" after "1972;" and by striking out the period at the end and inserting in lieu thereof "; $30,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975, sums appropriated under this section shall remain available until expended."

(h) Section 329 of such Act is further amended by adding at the end thereof the following new subsection:

"(l) Where the Corps requires personnel assigned to designated shortage areas to obtain State and local licenses or permits, the Secretary shall pay the fees therefor."

SEC. 303. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on whch such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall contain—

(1) (A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided such equivalent care and treatment through such hospital or other facility, or under such new arrangement, and (B) a detailed explanation of how such care will be provided to such persons, and an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer;

(2) (A) assurances that the capacity to supply health services to the critical manpower shortage areas near the facility will not be impaired by the closing or transfer and (B) a detailed explanation of how persons residing in such areas will be provided such care and treatment after the proposed closing or transfer;

(3) (A) assurances that any teaching program conducted at the hospital or other facility proposed to be closed will be conducted at other appropriate facilities, and (B) a detailed explanation of how such program will be conducted after the proposed closing or transfer; and

(4) the approval of those agencies estab-

lished under section 314 (a) and (b) of the Public Health Service Act, having jurisdiction in the area in which such hospital or other facility is located, where both such agencies exist or the approval of only one such agency where only one exists in such area.

SEC. 304. Section 741 (f) of the Public Health Service Act is amended (1) by striking out "The payments" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this paragraph, the payments", and (2) by adding after and below subparagraph (C) the following:

"In the case of any individual who qualified under paragraph (1) for payments on the principal of and interest on a loan and who, as a member of the National Health Service Corps, practices his profession in an area designated under section 329(b), the portion of the principal of and interest on the loans for which payments may be made for and on his behalf under paragraph (1) shall, upon completion of the first year of such practice, be 50 per centum and, upon completion of the second year of such practice, be the remaining 50 per centum."

SEC. 305. Section 218 of the Public Health Service Act is amended to read as follows:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 218. (a) The purpose of the Public Health and National Health Service Corps scholarship training program (hereinafter referred to as 'such program') is to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health related specialty, as determined by the Secretary;

"(3) be eligible for, or hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section, in the National Health Service Corps, the Indian Health Service, the Federal Health Programs Service, and such other programs as the Secretary may designate.

"(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–I with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, osteopathy or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this section except that if such residency is served in a Public Health Service facility or facility of the National Health Service Corps such residency shall be counted as satisfying the active duty service obligation under this section.

"(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury with respect to the grant on account of which such amount is due the United States.

"(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"(k) To carry out the purposes of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975."

SEC. 306. Section 2(f) of the Public Health Service Act is amended by inserting after "Puerto Rico," the following: "Guam, American Samoa, and the Trust Territory of the Pacific Islands,".

TITLE IV—MIGRANT HEALTH

SEC. 401. Section 310 of the Public Health Service Act is amended by striking out "$30,000,000 for the fiscal year ending June 30, 1973," and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year ending June 30, 1973, $105,000,000 for the fiscal year ending June 30, 1974, and $120,000,000 for the fiscal year ending June 30, 1975".

SEC. 402. Section 310 of the Public Health Service Act is further amended by striking "and" immediately before the clause designation "(ii)" in paragraph (1) and inserting at the end of such clause the following: "and (iii) premiums for a prepaid health care plan eligible for Federal assistance where such clinics or special projects so request. All such clinics, special projects, and prepaid health care plans shall provide outreach and follow-up services;".

SEC. 403. Section 310 of the Public Health Service Act is further amended by inserting "(a)" immediately after the section designation and by adding at the end of such subsection the following new subsection:

"(b) There are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to assist in the provision of necessary hospital care to domestic agricultural migratory workers and their families."

SEC. 404. Section 310 of the Public Health Service Act is further amended by adding at the end of new subsection (b) the following new subsection:

"(c) In making grants under this section the Secretary shall give priority to those applicants whose policy-making body is composed of a majority of persons who are consumers of its services, where competing applicants appear to the Secretary of Health, Education, and Welfare to be equally qualified."

TITLE V—PUBLIC HEALTH GRADUATE TRAINING

SEC. 501. Section 306(a) of the Public Health Service Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for the fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; and $34,000,000 for the fiscal year ending June 30, 1977."

SEC. 502. Section 309 (a) of such Act is amended to read as follows:

"SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; and $20,000,000 for the fiscal year ending June 30, 1977."

SEC. 503. (a) Section 309 (c) of such Act is amended to read as follows:

"(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"(1) comprehensive and multidisciplinary training in the field of public health; and

"(2) specialized consultative services and technical assistance in the field of public health."

(b) Section 309 of such Act is amended by

adding at the end thereof the following new subsections:

"(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"(e) In awarding grants made under subsection (c), the Secretary shall give primary consideration to the relative number of students enrolled in such schools.

"(f) There are authorized to be appropriated for carrying out the purposes of subsection (c), $21,000,000 for the fiscal year ending June 30, 1973; $24,500,000 for the fiscal year ending June 30, 1974; $28,000,000 for the fiscal year ending June 30, 1975; $31,500,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"(g) To enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate training in health care administration and management training, and for the purpose of strengthening or expanding such training in such institutions, there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; $6,000,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977."

SEC. 504. Sections 306 and 309 of the Public Health Service Act are each amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

Mr. KENNEDY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. COOK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 3716, to amend the Public Health Act, and so forth, to change the word "title" on line 7, page 33, to "act" and further that the Secretary of the Senate be authorized to make any technical and clerical changes in the engrossment of the said bill.

REGULATION OF THE DRUG DIETHYLSTILBESTROL (DES)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1033, S. 2818, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. CANNON). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2818, to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

That section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(q)(1) The administering of the drug diethylstilbestrol (DES) to the feed of any animal intended for use as food or to the feed of any animal the product of which is intended for use as food.

"(2) After December 31, 1972, the administering of the drug diethylstilbestrol (DES) to any animal intended for use as food or to any animal the product of which is intended for use as food unless, prior to such date, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are not applicable. If prior to December 31, 1972, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are applicable, he shall take immediate steps to prohibit the administering of such drug."

Mr. KENNEDY. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

Mr. MANSFIELD. Mr. President, would the Senator allow me briefly to suggest the absence of a quorum for 1 minute?

Mr. CURTIS. Surely.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

QUORUM CALL

Mr. MANSFIELD. Mr. President, again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 2 hours on the bill and a time limitation of 30 minutes on each amendment, with 15 minutes on amendments to the amendments; the time to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Nebraska (Mr. CURTIS).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 7 minutes.

Mr. KENNEDY. Mr. President, the legislation we are considering today was introduced by the distinguished Senator from Wisconsin (Mr. PROXMIRE) on November 8, 1971, for himself, Senators CASE, Moss, RIBICOFF, and myself. It was considered before our Health Subcommittee.

Mr. President, I urge the enactment of S. 2818, a bill which would regulate the use of diethylstilbestrol as a food additive. DES is a synthetic estrogen which is effectively used to expedite the process of fattening cattle; but it is also a universally recognized animal carcinogen and has been shown to be a causal factor in the development of human vaginal cancer. In spite of the fact that the Food, Drug, and Cosmetic Act is, in part, designed to prohibit the appearance of known carcinogens in our food supply, DES is at this moment appearing on the American dinner table and is being ingested by the men, women, and children of this country.

Mr. President, the fact that DES residues should not be appearing in our slaughtered cattle is now beside the point; DES residues are appearing, and they are appearing with increasing frequency. The incidence has quadrupled since December—from 0.5 percent of all cattle tested to 2.4 percent of all cattle tested as of now.

I regret that the Food and Drug Administration has not acted promptly and thoroughly on this issue. A review of their involvement with DES is both instructive and disheartening:

In 1941 the FDA permitted 11 firms to market DES for clinical use.

In 1947 FDA permitted the poultry industry to implant DES pellets in order to fatten the poultry more quickly. Although DES was already a known carcinogen, FDA felt that there would be no residues of it in the food supply.

In 1954 the FDA granted permission to use DES as a cattlefeed additive, again convinced that no detectible residues would appear in our meat.

In 1955, making the same safety assumption, pellet implants of DES for cattle were approved.

Mr. President, the FDA developed a reliable assay method for the detection of DES residues in 1957. Tests showed residues of DES in liver and in the skin fat of poultry. Yet, on its own, the FDA took no action. After the Delaney amendment to the Food, Drug, and Cosmetic Act was passed in 1958 making the appearance of carcinogens in the meat supply illegal, the FDA banned the manufacture of DES in poultry.

Under the 1962 Kefauver-Harris amendments to the Food, Drug, and Cosmetic Act, the Secretary has the administrative option of allowing the use of a known cancer causing substance in the feeding of cattle only if he is reasonably certain that no residues of that substance will appear in the meat that reaches the American dinner table. The FDA instituted procedures for the use of DES designed to eliminate residues from the slaughtered cattle. They required that all cattle be withdrawn from DES

48 hours prior to slaughter. The incidence of DES residues continued to rise under these regulations and in December 1971, the Commissioner of the FDA conceded the procedures were ineffective, and announced new requirements—now cattle would have to be withdrawn from DES 7 days prior to slaughter.

In spite of this revision, the incidence of DES residues quadrupled. The Commissioner, in testimony before the Senate Health Subcommittee, which I chair, blamed the rising incidence on faulty compliance with sound administrative procedures. Two weeks later, however, the Commissioner acknowledged the receipt of new information which convinced him that no administrative procedure could eliminate DES residues. He then announced an immediate ban on the production of DES, but permitted the continued use of existing DES supplies to January 1, 1973. The announcement had no effect on DES implants. The Commissioner acknowledged that there was no evidence one way or the other on implants and that pending the completion of a Department of Agriculture study, implant use would be permitted.

Mr. President, if a substance is known to cause cancer in animals; if it is known to cause cancer—at higher doses—in humans; if the law clearly forbids the appearance of carcinogens in our food; and if the Commissioner himself admits that residues will appear if DES is used, then how can we allow the continued use and continued ingestion of a cancer-causing substance? Clearly we cannot, and the enactment of S. 2818 would immediately halt the use of DES as a feed additive.

There is a second important component of S. 2818 which deals with the use of implants. It is certainly true, Mr. President, that there is no evidence now that implants will leave detectible residues. But in view of the precedents in this situation, it is important to find out if they do, and to place the burden of proof on those who say it will not leave a residue.

Implants in poultry were allowed and then had to be removed. DES feed additives for cattle were allowed and are now being removed. Now the question of cattle implants has arisen and we must not again assume safety. Thus, S. 2818 directs the Secretary to conduct tests to determine if residues appear following implants. These test results must be reported by January 1, 1973, or DES implants will be banned. If the test results show that there are no residues, then implant use can continue; if they show residues, and the result is available prior to January 1, then the ban would become effective prior to January 1. This approach places the burden of proof where it should be—on those who claim the method is safe.

Mr. President, this Nation is committed to an all-out effort to conquer cancer. The U.S. Senate has distinguished itself as a leading force in that effort. We have set a difficult task for ourselves and our country, and we have to pursue the effort on many fronts: By supporting basic biomedical research; by supporting clinical research and epidemiologic investigations; by support of the training of needed professional manpower; by assuring prompt treatment for those who need it; and by controlling environmental hazards.

DES is an environmental carcinogen which can be controlled. The distinguished Director of the National Cancer Institute, Dr. Frank L. Rauscher, Jr., has stated that environmental carcinogens should be controlled whenever possible, and he used the DES case as an example of where it is possible. The distinguished director of the Cancer Control Bureau of New York State, Dr. Peter Greenwald, concurred in that opinion. He pointed out that there is far greater evidence linking DES to human cancer than there was or is linking cyclamates or pesticides to human cancer.

I would agree with those of my colleagues who say that there should have been no need for this legislation. But while the argument rages over the legality of the FDA's phased withdrawal approach, DES continues to appear on our dinner tables. Of course it is undesirable to pursue a piecemeal approach to the banning of hazardous substances; but it is intolerable to allow the Nation to be, as the Director of the National Cancer Institute has said, "a research laboratory" on the possible long-term carcinogenic effects of DES.

Mr. President, I urge the enactment of S. 2818, so that this known cancer-causing substance can be immediately removed from our daily diet.

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

Mr. President, I yield to no person in the desire to eliminate cancer and the desire to eliminate everything that causes cancer. However, I also submit that unwise actions which are not based upon scientific fact merely confuse the issue, clutter the lawbooks, and hamper otherwise industrial activity. In the end it does not lessen cancer.

Mr. President, I rise to pose some very crucial questions as to the need to act upon S. 2818. The Food and Drug Administration on August 2, 1972, issued an order which banned the use of diethylstilbestrol—DES—in livestock feed effective January 1, 1973. They also stated at that time that DES in implants will be permitted continued use so long as no residues of the material show up in the liver tissues of beef animals. The USDA immediately undertook research utilizing the latest assay techniques to make this determination.

The bill sponsored by the Senator from Wisconsin, I submit, is not necessary in light of the actions of the Food and Drug Administration. In reviewing testimony presented at a hearing held by the Senate Subcommittee on Health, witnesses for the Food and Drug Administration made it clear that there was no imminent hazard to human health by permitting the continued use of DES in cattle feeds.

As a matter of fact, Mr. President, during that same hearing before the Health Subcommittee of the Committee on Labor and Public Welfare, FDA Commissioner Charles Edwards stated:

I think the danger in eating a charcoal broiled steak is so much greater—the potential hazard is so much greater than a hazard by these DES residues, which are minimal, to say the least.

Mr. President, that statement comes from the highest authority in the U.S. Government in this particular field. It points out that the residue is minimal and that it does not involve as much risk as is assumed by someone who eats a charcoal broiled steak.

Under further questioning, Dr. Edwards also stated:

We are not, nor is the National Cancer Institute, nor any of the authorities we have consulted, willing to categorize this (DES) as an imminent hazard.

Mr. President, are we called upon merely to give the status of law to someone's oratory or unfounded version or do we have a responsibility to be factual?

Mr. President, there was then the following line of questioning:

Senator KENNEDY. In spite of all the information and the research and the studies that have been made to indicate there is an increase in DES residues in the liver of cattle generally, you are still not prepared to make such a recommendation to the Secretary that it is an imminent hazard?

Dr. EDWARDS. That is right, Mr. Chairman; because we have absolutely no evidence that this has caused damage to human health.

Mr. President, again I say that this is not someone who is employed by some segment of industry. This is the highest authority in our Government on this matter.

He says that there has been absolutely no evidence that this has caused damage to human health.

Mr. President, Dr. Edwards then made this statement:

Under the Federal Food, Drug, and Cosmetic Act, there are two possible courses for withdrawing DES from use in food animals. If an imminent hazard to health can be demonstrated, the Secretary of the Department of Health, Education, and Welfare can issue an immediate ex parte ban on the shipment of DES in interstate commerce. It should be noted that in this case, an opportunity for an expedited hearing must be provided to the affected parties.

A decision that DES is an "imminent hazard" would require immediate removal from the market of all meat from animals fed DES and all feed containing DES.

An "imminent hazard" under the Federal Food, Drug and Cosmetic Act is defined as being a condition so hazardous that the article involved cannot continue on the market during the pendency of administrative proceedings. There is no evidence of harm to humans from the use of DES as a growth promotant in food animals, and consequently, we cannot substantiate a finding that it constitutes an "imminent hazard" to health.

The Commissioner concluded his testimony with this very telling statement:

DES will not be the only substance to generate these kinds of issues. This is why we cannot recommend enactment of S. 2818. We do not believe piecemeal legislation directed at any given substance is appropriate for making regulatory decisions that are to be based on scientific evidence. We now have sufficient regulatory authority to act effectively on behalf of the consumer. In this sense, S. 2818 is unnecessary.

In addition, Mr. President, I believe the following statement from the Director of the National Cancer Institute, Dr. Frank J. Rauscher, is worth mentioning:

Finally, Mr. Chairman, and in order to put this testimony in objective perspective, I must say that at the present time, our data does not incriminate DES as a human carcinogen when ingested at levels currently being detected in beef liver.

This fact, however, will not allow us to forget our concern when you recall that DES has been used for only approximately 15 years as an additive to feed grain; even with the relatively high doses used in the treatment of pregnant women it has taken 14 to 20 years to determine that cancers were induced in young women whose mothers received this drug during pregnancy.

My point here, to deviate just a moment, is we simply do not have enough years under our belt to determine whether even low doses have any carcinogenic effect or not in man.

Mr. President, it seems odd that S. 2818 really did not receive a full airing in public hearings. One day of hearings was held with all witnesses being selected on an invitation-only basis. One cattle-producing group, the American National Cattlemen's Association, presented testimony. Dr. Duane Flack, manager of the Monfort Feed Lots of Greeley, Colo., appeared for them. In addition to managing this very large feed lot, Dr. Flack is a doctor of veterinary medicine.

In his testimony he pointed out that the beef cattle industry has made tremendous strides in proper use of animal drugs. However, the technology of assay techniques has accelerated. A few years ago, what we thought was zero residue, today minute quantities may show up. Dr. Flack also pointed out that the price of beef to consumers would increase substantially. Based upon feeding trials the Monfort Feed Lots has calculated that the loss of DES would cause the price of sirloin steak to increase at least 15 cents per pound at the retail level.

It is my judgment that additional facts must be known before the Senate acts on S. 2818. It is my feeling that the measure should be referred back to the Subcommittee on Health of the Senate Committee on Labor and Public Welfare so that a complete hearing record can be established. In this way, a complete report will be available for my colleagues to act in a more intelligent manner upon this important piece of legislation.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes, and then I shall yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the point remains that 10 days after Dr. Edwards testified, he banned the production of DES. After all the points made here, the commissioner banned the feeding of DES after January 1, 1973; so he changed his position after the hearings. That is the first point.

Second, I have Dr. Rauscher's statement. He is the Director of the National Cancer Institute. He is the President's appointee; he is the "commander in chief" of the battle against cancer in this country; he has spent his whole life in the areas of cancer research. I read from his testimony, given before the Health Subcommittee on July 20:

In conclusion, it can be stated that DES is definitely a carcinogenic substance for several animal species, and apparently for humans.

In other public statements on the matter he said:

My view is this: In this case it is possible. My view is exactly that anything that increases the carcinogenic burden to man ought to be eliminated from the environment if at all possible—and in this case it is possible.

The Senator is quite correct that we are not able to say with scientific assurance how much DES must be ingested to constitute a health hazard. I say the burden of proof is on those who are willing to put DES on the dinner table to define what level is safe; no one can say now what that level is; no one can say that if so much of DES is ingested it will be safe, or that so much more will put a person in danger.

Those who have done the greatest research in this area like Dr. Peter Greenwald of New York State, say there is far more evidence linking DES to cancer in humans than there was for either cyclamates or pesticides, both of which have been banned.

Finally, we invited the Pharmaceutical Manufacturers Association and the Animal Health Institute, but they declined to testify.

Mr. CURTIS. Mr. President, will the Senator yield to me for 2 minutes so that I may reply?

Mr. KENNEDY. Yes, and then I will yield to the Senator from Wisconsin. I was going to yield to the sponsor of the bill, but if the Senator from Nebraska has a comment I yield to him first.

Mr. CURTIS. I thank my distinguished colleague. In my understanding, and I am sure the record bears this out, and I rise to set the record straight, Dr. Edwards has not changed his position since he gave his testimony. He acted in a regulatory manner because he was compelled to do so by law under a provision of the law that many of us believe should be modified and changed. The Delaney amendment, passed some years ago, provides that if they find any trace of a carcinogenic substance, there must be a ban, and it was under that law that Dr. Edwards was compelled to act. The law should be changed to ask the question, not is there a trace? but is there something there? is there a substance there that does cause damage to human beings? That is not the case. There are no authorities to support that it does. The head of the National Cancer Institution is not asking for the passage of this legislation, and the position of Dr. Edwards remains as it was stated in these quotations.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield to the Senator from Wisconsin whatever time he desires.

Mr. PROXMIRE. Mr. President, I would like to respond very largely to the remarks made by the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. President, S. 2818, my bill to immediately ban the use of the cancer-causing growth hormone diethylstilbestrol—DES—in livestock feed, is intended to meet expeditiously a problem that has been recognized by the medical profession as having great substance. It is intended to enforce the spirit, not merely the letter, of the Delaney clause, which prohibits any trace of a carcinogen in our food supply.

The Food and Drug Administration has announced that the use of DES in livestock feed will be terminated on January 1 of next year. In the course of the announcement the FDA did its level best to indicate that there was no health hazard associated with the use of DES. The agency referred to the use of DES as a "regulatory, not a public health, problem." Commissioner Edwards said that the FDA's action was "not based on any known hazard to human health."

Secretary of Agriculture Butz chimed in with a statement to the effect that Commissioner Edwards had to ban the use of DES despite the fact that there was no demonstrable hazard to human health in its use. He used the DES ban decision as a springboard to attack the entire Delaney amendment concept.

Both of these statements completely disregard the facts. Let me spell out some of those facts:

First. DES causes cancer in laboratory mice in doses as low as 6.25 parts per billion. Indeed it may cause cancer when administered in smaller doses. We just do not know because it has never been given in smaller doses under controlled laboratory conditions.

Second. There is a marked association between the taking of DES in doses as small as 1.5 milligrams a day by pregnant women to prevent abortion and cancer of the vagina in their daughters 15 to 22 years later. The association is particularly strong, because cases of this type of cancer in young women were almost unheard of. Dr. Herbst, of the Harvard Medical School, who did the pioneering study in the field indicated in his testimony before Senator KENNEDY's subcommittee on this legislation that "prior to 1966—only a few rare case reports existed in the medical literature."

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I will yield to the Senator in just a moment.

The rash of cases that occurred after that date had one common link—the use of DES by the mothers of the diseased children to prevent abortion. Dr. Peter Greenwald, director of New York State's Cancer Control Bureau, testified that he believed there is a cause-and-effect relationship between DES and vaginal cancer.

I am happy to yield to the Senator from Nebraska.

Mr. CURTIS. I would like to be informed as to what manner DES was given to pregnant women to prevent abortion. Was it through the use of beef liver that they tied this to? Was it DES that had passed through the animal's body?

Mr. PROXMIRE. No, it was not given in that way. Nobody argues that it was.

Mr. CURTIS. Then it is totally irrelevant.

Mr. PROXMIRE. Of course, it is relevant. It was precisely the same thing——

Mr. CURTIS. It is irrelevant.

Mr. PROXMIRE. It was DES. It is the same thing we are talking about here.

Mr. CURTIS. It cannot be said that a drug that affects a person adversely directly is going to have that same effect

if it is ingested by an animal and someone, a long time later, eats the meat from the animal. That does not follow at all.

Mr. PROXMIRE. Third, virtually all doctors concerned with the treatment of cancer believe that the use of DES in raising livestock should be banned if residues cannot be eliminated from our food supply, and a recent Department of Agriculture study shows that these residues cannot be eliminated. For example, Dr. Frank Rauscher, Director of the National Cancer Institute—who has been cited by the Senator from Nebraska as an authority—and thus the leader of the most comprehensive attack on cancer ever launched by any nation, put it this way:

> Although a direct connection between the ingestion of DES in beef and the development of human cancers cannot be documented, the presence of the chemical in food does, in my view, constitute a danger that should be circumvented.

That is what the Director of the Cancer Institute, which the Senator from Nebraska recognizes as an outstanding authority here, says should be circumvented.

Dr. Greenwald had this to say:

> It is clear that with DES we have direct evidence of a cancer-producing effect in humans, while with the other compounds [cyclamates and pesticides, products which have been banned] we do not.

Earlier in his testimony Dr. Greenwald indicated that in his personal opinion "it would be prudent to insure that DES is not in food when it reaches the table."

Now to the specifics of the bill. As I indicated earlier, S. 2818 would ban the use of DES in livestock feeds immediately upon passage—not next January. If DES is a true danger—and I submit that the facts show that it is—why wait until January to take it off America's dinner tables?

The bill also bans the use of DES implants, which are inserted under an animal's skin, effective January 1, 1973, unless the Secretary of Health, Education, and Welfare conducts and reports tests in the interim showing no residues are found in edible tissues following the use of implants. If the Secretary should discover before January 1 that residues do appear in edible tissue because of implants then he would have to take immediate steps to ban implants.

The FDA's recent ban on DES in feed permits the continuing use of implants unless residues are demonstrated to occur. S. 2818 places the burden of proof on the Government.

Although S. 2818 does not deal with the indemnity question, the committee report on the bill specifically leaves this question open—pending additional hearings.

It may be helpful to trace the events of the last few years in order to place the question of DES use in livestock in some sort of perspective. DES began to be used in cattle in the United States in 1954. It is particularly important to consider this date because the vaginal cancer study I alluded to earlier indicated that it took from 15 to 22 years for cancer to develop in those exposed to DES. Thus, if there were to be any discernible upsurge in cancer because of exposure to DES in meat, it would just now be occurring.

Despite the fact that 21 countries—I emphasize that—banned the use of DES in raising livestock, many of them in the early 1960's, the Department of Agriculture did not undertake a truly comprehensive program to uncover the extent to which DES residues were occurring in the livers of slaughtered cattle and sheep until 1971. Although the Department tested 1,023 samples in 1966, the testing program was greatly reduced thereafter to 495 samples in 1967, 545 in 1968, 505 in 1969 and 192 in 1970.

Finally, in April of 1971, a relatively comprehensive testing program was undertaken after a great amount of prodding from the public and the Congress. DES residues were found in approximately ½ of 1 percent of the 4,646 samples tested. Because of the continuing occurrence of residues where the law said there should be none, the Agriculture Department first called on the industry to institute a voluntary certification program under which cattle producers were to certify that their animals had been taken off the drug 48 hours prior to slaughter. When this appeared to be ineffective, the Department, in early 1972, instituted a mandatory 7-day withdrawal period.

At this point, it became evident that no amount of regulation would prevent the occurrence of residues. Although from January of this year to the middle of April the percentage of residues did not decrease, they did not increase, either. But between April 15 and August 26 residues have been showing up at the amazing rate of 3.34 percent—almost 7 times last year's rate. This can be attributed in part to improved detection methods that enable Agriculture Department scientists to find residues occurring at a level of less than two parts per billion. However, only 2 percent of the increase can be attributed to a jump in the sensitivity of the tests.

Despite FDA Commissioner Edwards' statement before Congressman FOUNTAIN's House Intergovernmental Relations Subcommittee last December that:

> Should the new control procedures prove unsuccessful in application . . . we are prepared to ban its use entirely from animal feeds.

The FDA did not finally announce a ban until August 2, and then only after research by the Department of Agriculture showed that residues could not be controlled by withdrawing the animals from DES impregnated feed before slaughter. Why this research was not conducted earlier remains a great unanswered question.

Still the FDA's action was incomplete.

Only a few days ago Congressman FOUNTAIN released a General Accounting Office report indicating that the FDA is acting illegally in continuing to permit the sale of DES until January 1. I ask unanimous consent that the report be reprinted in the CONGRESSIONAL RECORD at this point.

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

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 11, 1972.

Hon. L. H. FOUNTAIN,
Chairman, Intergovernmental Relations Subcommittee, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of August 16, 1972, which reads, in part, as follows:

"The Federal Register of [August 4, 1972], contains an order of the Food and Drug Commissioner withdrawing approval of the New Animal Drug Applications of a number of premixes containing diethylstilbestrol (DES), which is a cancer-promoting drug. The order became effective on the date of its publication, but the Food and Drug Administration is permitting continued shipment and use of the premixes until January 1, 1973.

"I would appreciate an analysis of the effect of the order on the legal status of the premixes and your opinion as to whether existing stocks of these premixes are now deemed to be unsafe new animal drugs under 21 U.S.C. 360b, and, therefore, adulterated within the meaning of Section 351(a)(5).

"I would also appreciate your opinion as to whether shipment of the existing stocks would violate 21 U.S.C. 331(a); and whether their use in feed would result in the adulteration of the feed within the meaning of 21 U.S.C. 351(a)(6); and whether such use in feed violates 21 U.S.C. 331(b) or (k)?

"Finally, I would appreciate your legal opinion as to whether the withdrawal of approval of an application may be partial so as to prohibit further manufacture of the drug while permitting its continued shipment and use."

The instant matter arises under the Federal Food, Drug, and Cosmetic Act (hereafter "the Act"), approved June 25, 1938, ch. 675, 52 Stat. 1040, as amended, 21 U.S.C. 301 *et seq.* The administration of the Act is vested generally in the Commissioner of Food and Drugs (hereafter "the Commissioner"). See 21 CFR § 2.120. There appears to be no question but that the premixes involved in the Commissioner's order of July 31, 1972, and published in the Federal Register on August 4, 1972, 37 F.R. 15747, are "new animal drugs" within the application of the Act. See section 201(w), as amended, 21 U.S.C. 321(w); see also S. Rept. No. 1308, 90th Cong., 2d sess., page 3. It also seems to be unquestioned that DES is a cancer-causing, or carcinogenic, drug.

Under section 512 of the Act, as amended, 21 U.S.C. 360b, new animal drugs must be cleared prior to marketing by the filing of a "new animal drug application" with the Commissioner pursuant to subsection (b), and the approval of the application in accordance with subsection (c). Subsection 512(d) specifically provides several grounds upon which the Commissioner shall refuse to approve a new animal drug application. Among these provisions is subsection 512(d)(1)(H)—the so-called "Delaney Amendment"—which requires disapproval if—

"such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply with respect to such drug if the Secretary [Commissioner] finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (i) such drug will not adversely affect the animals for which it is intended, and (ii)

no residue of such drug will be found (by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsections (c), (d), and (h)), in any edible portion of such animals after slaughter or in any food yielded by or delivered from the living animals * * *."

Section 512(e) of the Act provides for the subsequent withdrawal of approval for new animal drug applications; and reads in part, as follows:

"(1) The Secretary [Commissioner] shall, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application filed pursuant to subsection (b) with respect to any new animal drug if the Secretary finds—

* * * * *

"(B) that new evidence not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved or that subparagraph (H) of paragraph (1) of subsection (d) [the Delaney Amendment] applies to such drug * * *."

The administrative action culminating in the order of July 31 was initiated with the publication on March 11, 1972, of a notice of opportunity for a hearing announcing that the Commissioner proposed to withdraw approval of new animal drug applications for DES liquid premixes used in the manufacture of feeds for cattle and sheep. 37 F.R. 5264. On June 21, 1972, a similar notice and announcement was published with respect to DES liquid and dry premixes and DES implants for cattle and sheep. 37 F.R. 12251. Objections and requests for a public hearing were submitted by a number of holders of the applications affected. However, a hearing was denied as to the liquid and dry premixes on the basis that "the objections fail to demonstrate the existence of a genuine and substantial issue of fact * * *." Discussion and order, *infra*, 37 F.R. 15749.

The Commissioner's actual order of July 31, 1972, 37 F.R. at page 15750, is as follows:

"* * * [P]ursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the requests for evidentiary hearings with respect to the above-listed new animal drug applications for DES liquid and dry premixes for cattle and sheep are denied and approval of the applications, including all amendments and supplements thereto, is hereby withdrawn. Manufacturing of such premixes shall stop immediately, and feeding of existing supplies of such premixes shall stop as soon as existing supplies are exhausted but in any event no later than January 1, 1973. The Commissioner defers a ruling on withdrawal of the above listed new animal drug applications for DES implants for cattle and sheep. This order shall be effective on its date of publication in the FEDERAL REGISTER (8–4–72)."

The discussion of this order at pages 15748–9 reads, in part, as follows:

"The effectiveness of DES as a growth promotant has not been and is not questioned. Until Friday, July 28, 1972, the Commissioner was unaware of the existence of any data indicating that use under the conditions contained in the approved label would result in detectable residues of DES in the edible portion of animals. Prior studies, using the most sensitive research tools available, showed no detectable residues in the animal liver after 48 hours and even in inedible waste after 132 hours. On December 8, 1971 (36 F.R. 23292), the withdrawal period was extended from 48 hours to 7 days as a prudent precautionary measure to provide an extra margin of safety.

"On Friday, July 28, 1972, the Commissioner was informed of the results of a research study undertaken by the U.S. Department of Agriculture in which it was found, using radioactive-tagged DES in six steers, that detectable residues occurred in the liver from a single 19 mg. oral dose of DES after withdrawal for 3, 5, and even 7 days. * * *

* * * * *

"From earlier data, it was thought that the half-life of DES in the animal was 12 hours. The new data show that, after 3 days, the elimination rate appears to decrease substantially. Because the experiment has not been carried out for longer than 7 days, it is impossible at this time to determine the rate of residue elimination beyond this period. It is hypothesized that, after 30 days withdrawal, the residue would be reduced to the practical equivalent of zero. There are, however, no data available to substantiate this hypothesis. The law requires that the holder of a new animal drug application submit all data necessary to show that it is possible to use the drug without any residue remaining in the edible portions of the animal. In the absence of such data, the new animal drug application must be withdrawn.

"Even if data were available to demonstrate a suitable withdrawal period, it is now questionable whether a sufficiently precise regulatory surveillance method is available to permit continued approval of the drug in animal feed. In view of the new USDA study, it now appears that the test results thought possibly to be false positives may indeed have been true positives. The Commissioner is unaware of any data which could reasonably be interpreted to show that a 30-day feed withdrawal period, which in any event can only be hypothesized as a suitable withdrawal period, would be reasonably certain to be followed in practice. Even if a 30-day withdrawal period were ordered, no regulatory surveillance method now available would be sufficiently sensitive to detect violations of this requirement. The imposition of new and more stringent restrictions on the use of DES in feed, such as an increased withdrawal period, measures to avoid cross-contamination, and similar requirements, is therefore no longer a controlling factor in view of the new USDA study showing that even proper use of the drug under existing restrictions may result in violative residues."

It was also noted that the results of the USDA study were considered equally applicable to sheep, but not necessarily applicable where DES was introduced into cattle and sheep by the use of implants. The discussion as to withdrawal of approval for the new animal drug applications concluded at page 15749 as follows:

"This action is required under the strict terms of sections 512(d)(1)(H) and 512(e)(1)(B) of the act. These provisions, which contain the so-called Delaney Clause, require that there be no detectable residue. The new USDA study clearly shows residues at levels that are in the range of current detection methodology; new detection methodology is being developed that would be significantly more sensitive. Thus, under the law there is no alternative but to withdraw approval of the drug, even though there is no known public health hazard resulting from its use.

"It should be emphasized that the Commissioner has no reason to believe that use of DES in animal feed represents a public health hazard. No human harm has been demonstrated in over 17 years of use. Under the law, however, this continued use of the drug may no longer be permitted.

"The Commissioner has concluded that withdrawal of approval of the new animal drug applications for the DES liquid and dry premixes should be effective immediately. This means that these premixes may not be manufactured effective as of the date of publication of this order in the Federal Register."

The Commissioner's approach of "phasing out" the effects of his order withdrawing approval was explained at page 15748 as follows:

"This matter is a regulatory, not a public health, problem. The animal feeding industry, the pharmaceutical industry, and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that are reasonably certain to be followed in practice and that will result in the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued.

"Because there is no evidence of a public health hazard, however, there is no justification for an abrupt disruption of the production of the nation's meat supply. An immediate ban on use of DES in feed could result in an unwarranted public concern and an unjustified increase in meat prices. It is estimated that there is about a 4-month supply of DES liquid and dry premixes already manufactured and at various stages in the chain of distribution. Accordingly, the Commissioner had determined that the manufacture of liquid and dry premixes will be discontinued effective immediately. Feeding of DES will be discontinued as soon as existing supplies are used up, but no later than January 1, 1973. This will permit both an orderly phaseout of the use of the drug in animal feed and an opportunity for the animal feeding industry to switch to DES implants and other implants have been shown to be approximately as effective for growth promotant purposes as DES in feed."

The above-quoted portions of the order and discussion of July 31 demonstrate that the Commissioner's actual withdrawal of approval for the DES liquid and dry premix new animal drug applications was unequivocal and unconditional. In fact, the Commissioner apparently considered that, under the circumstances discussed, such withdrawal was mandated by section 512(e) of the Act. What the Commissioner's disposition purports to condition by the "phaseout" approach is the legal effect of his withdrawal of approval. Accordingly, for purposes of responding to the questions presented in your letter, we treat the Commissioner's action as a withdrawal of approval under section 512(e), and address only its "phaseout" aspect. In view of this, we express no opinion concerning the substantive and procedural validity of the withdrawal itself.

Section 512(a)(1)(A) of the Act, as amended, 21 U.S.C. 360b(a)(1)(A), provides:

"A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

"there is in effect an approval of an application filed pursuant to subsection (b) of this section with respect to such use or intended use of such drug * * *."

Section 501(a)(5), as amended, 21 U.S.C. 351(a)(5), provides that "[a] drug or device shall be deemed to be adulterated * * * if it is a new animal drug which is unsafe within the meaning of section 512 * * *." Section 402(a)(2)(D), as amended, 21 U.S.C. 342(a)(2)(D), provides that "[a] food shall be deemed to be adulterated * * * if it is, or it bears or contains, a new animal drug (or conversion product thereof) which is unsafe within the meaning of section 512 * * *."

Animal feeds are generally treated separately under the Act, see section 201(x) of the Act, as amended, 21 U.S.C. 321(x), and are subject to premarketing clearance procedures as set forth in section 512(m), as amended, 21 U.S.C. 360b(m). However, if an

animal feed bears or contains a new animal drug for which an approved new animal drug application is not in effect, the feed is "unsafe" under section 512(a)(2)(A), as amended, 21 U.S.C. 360b(a)(2)(A), and is itself an "adulterated drug or device" under section 501(a)(6), as amended, 21 U.S.C. 351(a)(6).

Section 301 of the Act, as amended, 21 U.S.C. 331, prohibits, *inter alia*, the following acts and the causing thereof:

the introduction or delivery for introduction into interstate commerce of any adulterated food, drug or device [subsection (a)];

the adulteration of any food, drug or device in interstate commerce [subsection (b)];

The receipt in interstate commerce of any adulterated food, drug or device, and the delivery or proffered delivery thereof for pay or otherwise [subsection (c)]; and

The manufacture within any Territory of any adulterated food, drug or device [subsection (g)].

Violations of section 301 are subject to civil injunctive remedies under section 302, as amended, 21 U.S.C. 332, and to criminal penalties under section 303, as amended, 21 U.S.C. 333. In addition, section 304, as amended, 21 U.S.C. 334, makes adulterated foods, drugs and devices liable to seizure and condemnation under the conditions set forth therein.

Sections 301 through 304, 402, 501, and 512(a) of the Act constitute a comprehensive and precise statutory system for the treatment of new animal drugs not having in effect approved new animal drug applications. The operation of this statutory system is, in our judgment, manifest: such new animal drugs, and feeds containing them, are adulterated drugs; foods containing such drugs are adulterated foods; and all of these products are covered by the prohibitions, sanctions and remedies set forth in sections 301 through 304.

We believe it is equally manifest that the Commissioner has no legal authority to vitiate or modify the operation of these statutory provisions. The Commissioner's authority and discretion under section 512(e)(1)(B) is limited to the determination of whether or not a condition for withdrawal of approval specified therein is presented. If it is, the Commissioner "shall * * * issue an order withdrawing approval * * *." There is nothing in section 512, or in any other provision of the Act, expressly or implicitly authorizing the Commissioner to withdraw approval for some purposes but not for others; or to delimit which legal consequences of withdrawal shall take effect; or to specify when and how such legal consequences shall take effect. On the contrary, the legal consequences of withdrawal specifically set forth in sections 512(a), 501 and 402 of the Act arise by operation of law. Thus the Commissioner has no function or authority, discretionary or otherwise, with respect to these effects.

We have no reason to question the Commissioner's sincerity in minimizing the significance of the DES problem from a health standpoint; and in seeking to ameliorate the practical difficulties which he apparently foresees as a result of withdrawal. However, the existence of a public health hazard is not a necessary prerequisite to withdrawal of approval under section 512(e)(1)(B) or to the operation of the legal consequences arising therefrom. Compare the last paragraph of section 512(e)(1), which does provide for suspension of approval and special procedures in cases of imminent hazard to the health of man or animals. Moreover, the practical consequences cited by the Commissioner, whether real or not, are, simply, immaterial under the statutory provisions governing withdrawals of approval and their legal effects.

For the reasons stated herein, it is our opinion that your first two questions must be answered in the affirmative and your last question in the negative.

Sincerely yours,

ROBERT F. KELLER,
Acting Comptroller General of the United States.

Mr. PROXMIRE. This GAO report makes it particularly important that S. 2818 be passed today. FDA has indicated that it intends to study the legal justification for the report before taking any action. The Senate should waste little time in backing up the GAO, its legal arm, by passing S. 2818. And, of course, S. 2818 would also solve the implant impasse.

A number of questions regarding the DES ban have come up over the months. Some of these questions have lost their timeliness in view of FDA's action. However, I would like to deal with them briefly.

The cattle industry claims that a ban of the use of DES will raise the price of meat at the retail level by as much as 10 to 15 cents per pound. We could expect the industry to provide us with a cost estimate on the high side as a convincing argument for permitting continued use of the drug. Yet, a Department of Agriculture study reaches the conclusion that the increase in cost to the consumer would be no more than 3½ cents per pound. This is a cheap price to pay for safe meat. It amounts to $3.85 per family per year.

Furthermore, the Department of Agriculture study shows that the long-range impact of a DES ban on the cattle industry will be negligible. In simple language, all will be in the same boat. No one will make a killing.

Others feel that since DES residues show up in virtually all cases only in the liver of the slaughtered animal, why not just stop the sale of beef liver? There are two answers to this question. First, liver is a nutritious food with large quantities of iron. Why ban it? Second, in two cases in which DES residues were found in parts of the carcass other than the liver—the musculature and the kidney—the level of concentration was approximately one-tenth the level found in the liver. Thus, if we assume that DES occurs in the musculature—sirloin steaks, and so forth—at one-tenth the level found in the liver, it would occur in the musculature at one-fifth part per billion when the level of DES in the liver was two parts per billion—until April of this year the lowest level of residue that could be detected. This one-fifth part per billion level is too low to be detectable but too high to be acceptable according to the FDA's own scientists who earlier this year in an internal memorandum urged a ban on DES until it can be detected at levels of one part per trillion. These were the FDA's own scientists, and this is what they asked for.

Finally, it has been said that we should be no more concerned about DES than we should about naturally occurring hormones that are present in our bodies. Again, an internal FDA memorandum makes it very clear that DES is a much more potent hormone than those occurring naturally. All plant hormones are significantly lower in activity than DES. One of the most potent, coumestrol, found in alfalfa and clover, has 1/10,000th the activity of DES. DES has 10 times the potency of the estrogen estradiol, which is naturally present in both animals and humans. Furthermore, DES is much more slowly broken down by the body than this natural hormone.

These, then, are the reasons why this body should act without delay to place a comprehensive ban on the use of DES in fattening livestock. Surely we own our people the same standard of care that most of the countries of Western Europe have exercised in banning this drug. American families should be able to choose their food without the nagging fear that it may contain too much of a cancer causing substance. We have already waited too long in making it clear that cheap but contaminated meat is a bad bargain indeed.

Mr. President, just one more note. Earlier this year, I was asked by the beef producers of my State, who were very concerned about my action in introducing this bill, to come out and talk to them. So I did, and we had a very constructive meeting. There were 300 or 400 beef producers present. The meeting was attended by a representative of Eli Lilly, one of the principal producers of DES; and it was attended by representatives of the State Department of Agriculture and also the Federal Department of Agriculture.

I must say, after discussing this matter with the beef producers, and after hearing both sides of the question very vigorously expounded by Lilly, they told me if there were any question at all, they would greatly prefer to have the DES banned, because they did not want to be in any way responsible for causing an increased incidence of cancer.

I understand their concern. From every standpoint, those people are good citizens, but they also recognize that they are consumers, too. Their own children and families consume this product. Beef has become far more important than ever before in the American diet. So there is need for safeguards.

There is a very serious doubt here, and one on which Congress can act, as I say, with relatively low cost to the consumer and, in the long run, at very little cost or perhaps no cost to the beef producer, because what will happen is that the consumer will pay a little bit more, but the producer will be in about the same position as now.

Mr. President, there is just no substitute for safe and sanitary food. If there were to be some small dropoff in demand because of a slightly higher price because DES is banned, it seems to me that would be far more than compensated for by the assurance to the American consumer that when he eats beef or liver, he is eating a food which is safe and sanitary and will not cause the most feared and terrible disease that plagues mankind.

I thank the Senator from Massachusetts, and I yield the floor.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. CURTIS. Mr. President, I ask unanimous consent that we may have a

quorum call with the time not charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CURTIS. Mr. President, I ask unanimous consent that a member of the staff of the Committee on Agriculture and Forestry, Mr. Forest Reece, be permitted to be present in the Chamber during the consideration of this measure.

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

Mr. CURTIS. Mr. President, I yield such time as he may require to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I rise in opposition to S. 2818, not because I favor the use of any compound in agriculture that endangers the health or life of any person in this country, but rather because I know the importance of good food and economically priced food to the American people, and I feel that action on S. 2818 at this point in time, when the facts about DES are not known, is highly premature.

There is, so far as I know, no evidence that ear implants, which is the way that DES is commonly administered to livestock, have ever caused cancer, or even caused the accumulation of any residues in the edible portions of a beef animal.

As a cattle producer, I know that the elimination of DES from feed has done away with the source of the DES accumulation in the livestock livers, which is what touched off this entire controversy, but I have seen and I have watched the literature carefully, and I have yet to see any evidence that ear implants have been responsible in any way for accumulation of DES in any portion of the body that is used for human food.

The fact is that the use of DES in beef production is a major advantage to the beef consumers. The evidence that I have been able to accumulate shows that ear implants result in about a 10 percent reduction in the cost of beef production. These implants, which are generally used in young animals from the time they are old enough to start grazing or through the food lot, do result in greatly increased efficiency, and have the net effect of reducing the cost of production and thereby ultimately producing considerable benefit to those who consume the meat in their regular diets.

When we pass legislation like this, that has, probably, no benefit to the consumer, but rather will work a great hardship on many people who are already hard-pressed to secure adequate diets, I believe we are having a very strong negative effect on the very people we are trying to help.

Mr. President, this bill provides that the Secretary of HEW will need to make an affirmative finding that DES is not harmful. That provision would seem to be highly satisfactory; but the facts are that with the great emotion that has been stirred up over the DES controversy, this legislation is going to put the Secretary of HEW in an almost impossible position.

It seems to me that Congress is saying to a public official, who probably has very little access to knowledge about the livestock producing business, that this official is required to make a finding that the scientists and others who have studied the question at the present time are not in a position to make.

I strongly believe that the consumers of this country will be much better served by at least postponement of action on S. 2818 until the facts are known, or perhaps at this time by the defeat of this legislation until we are able to know exactly where we stand in connection with the use of this drug.

Mr. President, I would agree that the action taken so far to eliminate the oral feeding of DES is in the public interest. It has been shown that it was administratively impossible to establish guidelines that could be administered throughout the vast livestock industry that prevented the accumulation of DES in livestock livers, and that action clearly, in my mind is in the public interest; but when we undertake legislation like S. 2818, we are asking for a public official to make a finding that scientific evidence presently will not support.

Mr. President, I have in my hand a letter from a livestock feeder, Mr. C. Robert Buford, who runs the Seward County Land and Cattle Corporation in Liberal, Kans., and in his letter he points out precisely the cost benefits that are ultimately passed on to the consumers from the use of DES. He points out that the use of DES results in about one-fourth pound per day additional gain in an animal. This results throughout a 140-day feeding period in a saving of about $10 per head.

To quote directly from Mr. Buford's letter, he says that using two 15 milligram implants of DES provides us with a two-tenths pound per day of additional gain. As I said earlier, this results, as he said, in a $10.36 per head saving.

When you realize that for most feed lot operators, the margin of profit for fattening a beef animal averages out in the high plains of Oklahoma, Texas, Colorado, and New Mexico to about $15 a head, one can see that if S. 2818 is passed and the implants are no longer legal, the only thing that can happen is that the cost of beef has to go up.

The problem in my mind is a very clear one—that is, do we wish to increase the cost of wholesome beef to the American consumer by a fairly significant amount in order to satisfy the fears, the unfounded fears, of many that here is a drug that may under some circumstances cause problems.

These circumstances have never been proven, and to me, until they are proven, we are clearly acting contrary to the best interests of our consumers and constituents.

I ask unanimous consent that this letter be printed at this point in the RECORD.

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

SEWARD COUNTY LAND
& CATTLE CORP.
Liberal, Kans., June 23, 1972.

Senator HENRY BELLMON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BELLMON: As requested at the dinner meeting at Pawhuska last week, I have asked our nutritionist, Ross Cooley, of Amarillo, Texas, to prepare a short report on the usage of the controversial feed additive commonly referred to as DES. I quote from his report as follows:

"The question as to which form of DES the feedlots would rather give up is a very complicated one to answer because it is full of ifs, ands, and buts. First of all, let me say that we don't want to have either one taken from us. The Food and Drug Administration is well aware that most feedlots today are using both forms simultaneously. Why are they? Because the dual usage increases gain and increases feed efficiency and, therefore, decreases cost of gain. While there are no regulations for or against the dual usage (implanting as well as oral usage), the FDA last December chose to threaten to prosecute those feedlots whom they found practicing dual usage. If the dual practice is found today in a feedlot by the FDA, they no longer write them up as being in violation but simply inform the feedlot that the FDA does not condone this practice.

The use of the oral DES (10 mg. per day) in feedlot steer rations provides us with .25 pound additional gain per day. Using two 15 mg. implants in addition to the oral DES provides us with an additional .2 pound gain per day. This is a combined .45 pound gain per day from the dual usage of DES.

I offer the following:

140 day feeding period X .25 lb./gain=35 lbs. @37 cents/lb.=$12.95.

140 day feeding period X .2 lb./gain=28 lb. @37 cents/lb.=$10.36.

If they take away oral DES, we rob today's cattle feeders of $12.95. If they take away implant DES, we rob the cattle feeders of $10.36. Take both and we relieve the cattle feeders of $23.31, which is sometimes more profit than we actually make on cattle on the average.

We are having some minor problems today with liver residues of DES, but this is only since the new parts-per-billion technique was developed. In fact, the USDA and the FDA admitted on May 5, 1972, during the meeting with ANCA and many cattle feeder groups, that it does in fact probably take five days to clear the liver residues after withdrawal and not the forty-eight hours they originally cleared for the first oral DES applications. We can clean up the residue problem with proper guidance and leadership from the FDA, which they have never given as they have for commercial supplement manufacturers. If this is not possible, let's give up all livers and kidneys, which are the only organs showing some residues. If this is not possible, let's give up the oral DES, since no residues have ever been found from DES implants."

I might add that my objective as a feeder is an attempt to obtain a 15% return on equity, and I feel that this is the objective of most people. When we take Ross' figures and analyze the reduction in potential by discontinuing the use of DES, many people are going to give the cattle business a lesser consideration with their investment dollar.

Thank you for being such a fine representative of the cattlemen. We spent much time discussing the project you presented in Pawhuska last week—exporting feeder cattle. Mr. Butcher and several of us are very much interested in developing information on the potential of this area.

Again, Martha and I enjoyed dining and

visiting with Shirley and you, and only wish that our state was represented by you in our very fine government.

Sincerely,

C. ROBERT BUFORD.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. PROXMIRE. Does the Senator argue that DES should be permitted as a feed until it can be proved that it does not cause cancer?

Mr. BELLMON. Mr. President, DES as a feed has already been removed. This is not the controversy. The controversy is whether or not it should be used as an implant, because, until it has been shown that DES as an implant causes residues in the edible portions of animals' bodies, there is no justification in taking this action.

Mr. PROXMIRE. I say to the Senator that DES has not been abandoned and will not be abandoned until January 1, 1973. Meanwhile, we have several months in which the hazard to human health, in my view, is continuing.

Mr. BELLMON. Let me say to the Senator from Wisconsin that I would support action to remove DES immediately as a feed additive. My concern is that S. 2818 removes DES also as an implant, and there never has been any evidence that an ear implant causes accumulation of DES in the edible portions of animals' bodies.

Mr. PROXMIRE. I appreciate the clarification. But I say, once again, that it seems to me that as long as there is a demonstrable concern on the part of top scientists and the FDA that the presence of as little as one part in a trillion in the animal can cause cancer, it seems to me that we should err on the cautious side and be careful the other way.

The Senator, it seems to me, is putting himself in the position or arguing that we should treat the American people as guinea pigs until we can show, over a period of years, that the incidence of cancer has increased from DES. Perhaps I misunderstand the Senator. Until we can show that the incidence of cancer has increased as a result of this, he would permit it to be used as an implant. Is that correct?

Mr. BELLMON. My position is that until and unless scientific evidence can be brought forth showing that an ear implant results in an accumulation of DES in the edible portions of the animal, there is no justification for legislation that prohibits the use of this drug, which has proved to be extremely beneficial in the economic production of food.

Mr. PROXMIRE. I say to the Senator from Oklahoma that what my bill, S. 2818, does is to place a ban on implants unless it can be shown that no residues occur. What is wrong with that? Why should we not say that we will ban it unless it can be proved that it does not cause residues of cancer?

Mr. BELLMON. Mr. President, what I stated earlier in my statement is that this bill puts the burden on the Secretary of Health, Education and Welfare; and with the tremendous emotional impact of the cancer question, in my judgment, this puts the Secretary in an impossible position.

Mr. PROXMIRE. Well, not impossible. The technology in this area is improving all the time.

Mr. BELLMON. There is no reference to technology.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. KENNEDY. The Chairman of the Food and Drug Administration indicated to us in late July that in a period of 6 weeks the administration could do a study to indicate whether the implantation method was safe. That was in late July. They have indicated to our Health Subcommittee that they could conduct a study and make a report to indicate whether the implantation of DES is safe.

We know that they have been running into difficulties. We are giving them until January 1 of next year to make that study.

That is more time than they themselves indicated was necessary.

It seems to me that every time DES has been used residues have been found; they were found after DES was fed to poultry; they were found after DES was implanted in poultry; then it was fed to cattle and residues were found; now the same questions are raised with beef implants. The precedents are clear; residues have been found with every kind of DES use.

It is because of that that we are now trying, by the proposed legislation, to require that a study take place to see if implants leave residues in cattle; and we are willing to abide by that study in this proposed legislation.

I have favored a position to abandon the implants, in any event. But so far as the proposed legislation goes, we will abide by the study results.

Mr. BELLMON. I would agree with the Senator that if the legislation anticipates that the Secretary's decision will be made based on a finding that the implant does cause an accumulation of DES, then certainly there is reason for this action. But the legislation as I read it, says unless the Secretary affirmatively determines that the provisions of section 512(d)(1)(H) of this act are not applicable. I would therefore like to ask the chairman a question: Is it the intent of the legislation that this decision will be made after the tests are made, and after it has been demonstrated that the implants do cause an accumulation of DES which would ban the use of the drug?

Mr. KENNEDY. Yes, the decision will be on the basis of the test results. The Senator is correct. If the test comes out and says that there is no danger; the head of the Food and Drug Administration gives carte blanche so far as safety is concerned, then the implant use would continue.

Mr. BELLMON. In other words, if the tests show the implants do accumulate the DES, then the Secretary would make a finding banning use of the implants?

Mr. KENNEDY. That is correct. Page 8 of the committee report states that the committee's bill "bans the use of DES implants effective January 1, 1973, unless, prior to that time the Secretary of Health, Education, and Welfare conducts and reports the results of tests which indicate that no residues of DES are found. Then they would be able to use it after January 1. This bill bans immediately the use of DES in cattle feed which, as the Senator knows, is still being used under the Food and Drug Administration's phased withdrawal order. Implants are not banned if the Secretary proves they are safe; otherwise they too are banned.

That is what we are doing. We ban implants after January 1, 1973, unless the study indicates there is no DES residue in the edible portion of the cattle. If the Secretary determines that there is no residue, then they can continue to implant it, at least insofar as this legislation goes. I have some reservations about that, but in working it out in the committee, this was the compromise that was reached.

Mr. PROXMIRE. The fact is, my bill originally did not provide for any compromise. The committee watered down the bill. It compromised the bill which made it more acceptable to the industry. I do not see how we can go much further. If the bill is defeated, we will be in a position of having all our beef and liver offered for sale in this country in a suspect position. It will be far more damaging to the meat producing industry than passage of a compromise bill.

Mr. KENNEDY. I know that the Senator from Oklahoma is making his statement now but I would be interested, as a point of information, as to whether the use of pellet implants has increased. There is information that prior to January approximately 5 percent of farmers used implants. Now that has increased significantly. I would be interested in what the experience of the Senator from Oklahoma has been on this matter, as he comes from a meat producing State.

Mr. BELLMON. I believe the Senator is entirely accurate that the use of the implants is on the increase because the economics are such that it makes it almost necessary for an operator who wishes to be competitive to use this drug; otherwise, the efficiency of his operation is damaged.

Mr. KENNEDY. I was deeply impressed with one of the points the Senator from Wisconsin made. He said that if there is a ban that applies across the board, the economic disadvantages would affect all feeders equally and that their economic competitive situation would be pretty well equalized. Is that true?

Mr. BELLMON. That is entirely true. The net result would be that all feeders would ultimately have to increase the selling price of their animals, which would mean that consumers would have to pay higher prices. According to a reliable source I have, it would be $10.36 per head.

Mr. KENNEDY. We have had different reports on that. The Department of Agriculture made a study on it. It was $3.85 per person per year. I will include these figures in the RECORD, not during the Senator's remarks, but in an appropriate spot.

The estimated rise in meat prices by the Department of Agriculture was 3.8 cents per pound. This comes to $3.85 per year per person eating 100 pounds of meat.

Mr. CURTIS. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BELLMON. I yield.

Mr. CURTIS. If all use of DES is banned, it does put beef in a less competitive position with other foods, particularly other protein foods, is that not right?

Mr. BELLMON. The Senator is correct. For very good reasons. The American consumer seems to prefer beef, as the Senator is well aware. At the present time, poultry is available to the consumer at much lower prices than beef but the consumer consistently selects beef over poultry. The fact is, our appetites are such, it seems, that we have a greater desire for beef than any other kind of meat.

Mr. CURTIS. It was stated here by someone—at least I got that impression—that DES had been used in poultry feed and there were some known results with reference to that. Are there any facts with reference to such a test?

Mr. PROXMIRE. My understanding is it was banned for use in poultry feed in 1954.

Mr. CURTIS. Were any tests conducted?

Mr. PROXMIRE. They found residue, as I understand it. They found residue after DES was implanted in the necks of poultry.

Mr. KENNEDY. My understanding is that in 1954 DES was banned for use in poultry, and in 1959 for the implants on poultry of pellets.

Mr. CURTIS. Are there any known facts as to how much residue was found?

Mr. KENNEDY. We can provide that for the RECORD.

Mr. PROXMIRE. We do not have that—what the residue level was.

Mr. CURTIS. We do not have any facts whether it is harmful to human beings?

Mr. KENNEDY. We do have the facts, that DES is carcinogenic, that it is harmful to human beings. We also have the facts about the sizable increase in the consumption of meats. We have all of that.

Mr. PROXMIRE. The study made at the Harvard Medical School showed cancer of the vagina, which is a very rare disease, which occurred in the daughters of women who had received DES. As the Senator knows, we went over all this before.

Mr. CURTIS. But that was due to the intake of DES as medicine.

Mr. PROXMIRE. I thought the Senator asked was there any evidence that DES causes cancer. That is quite different from implanting DES or feeding DES to an animal which a human being consumed. We do not have that kind of specific evidence with respect to that.

Mr. CURTIS. I should state also that there are many sources of carcinogenic material that actually gets into food. It is there in a trace just as it is in beef. But today we are setting a precedent not to give that problem to a regulatory agency, to come up with a finding pursuant to scientific tests directly by legislation.

Mr. PROXMIRE. If we know that a substance is carcinogenic, we should take it out. We know that DES is a substance of high potency, far higher than many other elements.

Mr. CURTIS. But what we do not know is that there is a residue sufficient to cause damage to any human. I think that that is——

Mr. PASTORE. Mr. President, will the Senator from Nebraska yield for a question on that point?

Mr. CURTIS. I yield, although I do not have the floor. The Senator from Oklahoma has the floor.

Mr. BELLMON. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. We may not have proof, but one of the worst scourges visited upon mankind is cancer. That is the one disease that everyone dreads. We all dread cancer. I think it is a horrible disease. There is a lot of talk here about how much this will cost with respect to the price of meat, which is of some concern, of course, but it is not the determining factor. In my humble opinion, it is not the determining factor.

Now, if the proof is not there, at least the suspicion is. This suspicion was strong enough to conclude that further production of DES should be stopped. Then they went a step further and said, "You can use it up." In other words, continue its use only because we want to use up the stock we already have.

That, to me, is a ridiculous decision. To be sure, it is absolutely ridiculous. If there is a suspicion that this is harmful to human beings and may cause cancer, then I think the benefit of the doubt ought to be toward banning it rather than allowing it.

Mr. PROXMIRE. Mr. President, is it not true——

Mr. BELLMON. Mr. President, let me respond to the Senator's comment. There has never been any evidence that implantation has ever caused cancer in an animal's body. The action taken was against the feed and DES. I would agree with the Senator that if it causes cancer in the animal's body, it should be banned.

Mr. PASTORE. Mr. President, will the Senator agree that we need proof that the implant will be harmless before we indulge in permitting it to continue?

Mr. BELLMON. We had proof of that.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. CURTIS. Mr. President, I would like to point out that this is an issue involving other matters. And one of them concerns the right way to do it. Shall we make scientific decisions here, or shall an appropriate authority make it?

Here is what Dr. Edwards, head of the Food and Drug Administration, says:

> We have absolutely no evidence that this has caused damage to human health.

He further says:

> We are not, nor is the National Cancer Institute, nor any of the authorities we have consulted, willing to categorize DES as an imminent hazard.

Mr. PROXMIRE. Mr. President, I would like to quote Dr. Peter Greenwald, director of the New York State's Cancer Control Bureau. He said:

> It is clear that with DES we have direct evidence of a cancer-producing effect in humans, while with the other compounds (cyclamates and pesticides, products which have been banned) we do not.

We do not have that kind of evidence with any of the other products we have been talking about.

Mr. CURTIS. Mr. President, is the doctor citing a reference to DES use as a drug directly or the DES that comes from beef liver?

Mr. PROXMIRE. He is referring to DES as a drug.

Mr. CURTIS. Surely, he is. So the Senator stands without any evidence.

Mr. PASTORE. Will the Senator yield on that point?

Mr. CURTIS. I yield.

Mr. PASTORE. Mr. President, what experiments have been made that produce no evidence? Are we talking off the top of our heads, or from scientific research?

Mr. CURTIS. One of the top scientists can be referred to on this. It is Dr. Edwards.

Mr. PASTORE. So many of the other scientists disagree.

Mr. CURTIS. He was talking about another process where a human being took DES directly. The head of the Cancer Institute has not asked for this legislation.

Mr. PASTORE. Mr. President, I have a pamphlet in which Dr. Frank Rauscher, Director of the National Cancer Institute, urges a ban on DES.

Mr. CURTIS. And they did.

Mr. PASTORE. Why did they do it?

Mr. CURTIS. They did it because of the Delaney provisions of the law.

Mr. PASTORE. The Senator is correct. They did it because it was harmful to human beings in the human consumption of meat.

Mr. CURTIS. No.

Mr. PASTORE. Why did they ban it?

Mr. CURTIS. The Delaney amendment required that they ban it if there was a trace.

Mr. PASTORE. The Senator is correct. There was a trace, and because there was a trace, there was a suspicion. And because there was a suspicion, there is a suspicion also that it will harm human life.

That is all I am arguing. All I have heard is a discussion of how much it will cost a family to eat meat. I would rather go without meat than die of cancer.

Mr. CURTIS. There are a lot of other things that the Senator should stop. He should stop eating charcoal broiled steaks. Maybe we should outlaw that.

Mr. PASTORE. Maybe we should. If that kills people, I say stop it. However, that is up to me whether I want to eat a charcoal broiled steak. I do not do it. I put mine in my electric oven, and get just as good a steak.

If someone wants to eat charcoal broiled steak, let him do it. However, I am saying that people are buying this meat without knowing the effect it has on human beings. If that is so, we ought to stop it.

Mr. BELLMON. Mr. President, there has never been any evidence that implants cause this disease in an animal's body, and until there is, I do not think that we should ban it.

Mr. KENNEDY. Mr. President, that is the basis of the information we are going to get from the study by the Food and Drug Administration. It is going to determine whether there is a residue. If there is not, the effect of this legislation will be obscured. They will be able to continue with the implantations. However, we have seen that there was a residue shown in poultry meat when implantations were made. Therefore, DES was banned for use in poultry. When they fed it to cattle, it showed up in the residue; and they banned it.

There is proof that only a small percentage of the cattle had implants before the FDA order. Now its use is increasing. We want to see if a residue shows up following cattle implantation, and if it does we will ban it. If a residue does not show up, they can continue with their practice.

It seems to me that is a fair and reasonable way of proceeding on this matter. After all, DES has been generally recognized as a cancer causing substance.

No one can tell us on any scientific basis how much DES can be ingested by human beings without danger. No one knows that. There is no evidence from the Food and Drug Administration on this matter.

We cannot tell whether it is one part per billion, two parts per billion, or half a part per billion that is a safe quantity. We do know that it causes cancer. We do not know what the safe level is and if we want to protect the American dinner table, we ought to be able to be sure about the safety issue.

Mr. President, I am prepared to yield back the remainder of my time if there is no further discussion.

The immediate problem we are facing at the present time is that the incidence in December of last year was 0.5 percent. On July 20 of this year, it was 2.1 percent. Then FDA went ahead and banned its production. As of today it is 2.5 percent. So, the percentage of DES in beef has continued to rise, even after the production ban. The incidence is approximately four to five times as high today as it was last year. The number of cases has increased from 59 cases in July to 81 cases today. So, even with the ban on DES, we find that the incidence of residues is rising.

We cannot get away from the fact that all this legislation does is to do what the head of the National Cancer Institute says it is possible to do.

When the Secretary conducts that study, if they find implants are safe, their use can continue. If they find that they cannot give us that assurance, then the same ban would apply as applied in the case of the feed.

Mr. JAVITS. Mr. President, I urge the passage of S. 2818. This bill would prohibit the administration of the drug diethylstibestrol—DES—a synthetic estrogen used therapeutically in certain human diseases and to fatten cattle as a feed additive and implant—to any animal intended for use as food, immediately as a feed additive and as an implant on December 31, 1972, unless the Secretary of the Department of Health, Education, and Welfare affirmatively determines otherwise.

DES is universally recognized as a carcinogen for animals and most expert witnesses, including the Director of the National Cancer Institute, also feel that DES is a carcinogen for human beings.

The Director of the National Cancer Institute of the National Institutes of Health has stated that an important component of this Nation's all-out effort to conquer cancer will be the reduction of man's carcinogenic burden. I support that view and agree that anything that increases the carcinogenic burden to man ought to be eliminated from the environment if at all possible.

The Food and Drug Administration has stated that "Effective immediately, all production of DES for use in feeds must be stopped", and this bill implements that decision rather than permitting existing stocks of DES for feed to be used until January 1, 1973.

It is important to find out if they do, and to place the burden of proof on those who say it will not leave a residue. Therefore, the bill provides that if the test results show that there are no residues, then the DES implant use can continue. If they show residues, and the result is available prior to January 1, then the DES implant ban would become effective prior to January 1.

Mr. DOMINICK. Mr. President, we have all heard a lot of talk suggesting that due to our DES contaminated meat supply, Americans are in danger of getting cancer every time they sit down to have a steak or a hamburger, and that this legislation is necessary to put a stop to it. Some of this rhetoric, which is at best misleading, may be found in the committee report on S. 2818. Just to balance the record, I would like to emphasize a few points which are not in dispute.

First, no DES has ever been found in steak or hamburger. Small traces of DES have been found only in beef livers and kidneys. Such traces were found in one half of 1 percent of samples tested in 1971. Second, there is absolutely no evidence that such small quantities of DES impose any risk of cancer in humans. Third, there are laws on the books right now which, if strictly enforced, are adequate to provide full protection to the American public.

I think a brief summary of the essential background facts will be helpful. DES—diethylstilbestrol—is a synthetic estrogen. It has been used since about 1954 as a growth stimulant for cattle and sheep, either by adding it to feeds, or by implanting small pellets in the ear. Dr. Charles Edwards, Commissioner of the Food and Drug Administration, testified before the Health Subcommittee that "a beef animal will reach a market weight of about 1,000 pounds 35 days sooner using 500 pounds less feed than a comparable animal not fed DES. Additionally, this increase in body weight is reflected in additional protein and less fat in edible tissues." DES or similar growth hormones are administered to 80 to 90 percent of the cattle fed for market.

The use of DES to stimulate growth in cattle and sheep is regulated by the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act. The 1958 food additives amendment to the act included the so-called "Delaney clause" which prohibited the use of any food additive known to cause cancer in man or animals. Since DES had been shown to cause cancer in laboratory mice, Congress in 1962 amended this provision for the express purpose of permitting the use of DES in cattle and sheep. The 1962 Drug Amendments amended the Delaney clause to except animal drugs which, though they may be carcinogenic, are: First, safe to the animal, and second, leave no detectible residues in edible tissues at the time of slaughter if used in accordance with label directions that are reasonably certain to be followed in practice.

Although DES residues have been detected in the liver and kidneys of cattle and sheep, no such residues have ever been found in any other edible tissue—including steak and hamburger. Until recently, tests conducted by the Department of Agriculture indicated that no residues are detectable in livers or kidneys when the use of DES is discontinued 48 hours prior to slaughter. Accordingly, FDA regulations under the act required a 48-hour withdrawal period. This was extended to 7 days when, due to enforcement problems, DES residues continued to appear. In July of this year, a new radioactive tracer test developed by the USDA showed detectible residues up to 1 part per billion could be expected in livers of cattle slaughtered 7 days after withdrawal of DES from their feed.

Shortly after notification of the results of USDA's new tests, the FDA issued an order immediately prohibiting further production of DES for use in feeds, and prohibiting the use of existing stocks of DES in feeds after December 31, 1972. This order was based on a determination that it would be difficult, if not impossible to regulate the use of DES in feeds so as to prevent residues in any amount, as required by the Delaney clause. The order made clear that it was based on the "no detectible residues" requirement, rather than any hazard to health. It stated specifically that there is no evidence that DES residues in the amounts detected pose any danger of cancer to humans. Since residues of DES administered to cattle or sheep only by the implant method have never been detected, the order did not affect the continued use of DES implants pending the outcome of further tests. I ask unanimous consent that the full text of the FDA order be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Rockville, Md.

DIETHYLSTILBESTROL (DES)

The Food and Drug Administration today ordered an end to the use of diethylstilbestrol (DES) as a growing stimulant in animal feeds.

Charles C. Edwards, M.D., Commissioner of Food and Drugs, said: "New scientific data developed by the U.S. Department of Agriculture and received by my office on July 28, 1972, casts serious doubt on our ability to set rules for the use of DES in animal feed that will insure against residues remaining in animal livers at time of slaughter. The Delaney amendment of the Food, Drug, and Cosmetic Act explicitly forbids any such residues. Since regulatory requirements of the law cannot be met we have no choice but to discontinue approval for use of the chemical in animal feed."

Effective immediately, all production of DES for use in feeds must be stopped.

Dr. Edwards emphasized that the withdrawal order is an administrative action dictated by strict provisions of law which govern the use of products, such as DES, which have been shown to induce cancer in test animals. Dr. Edwards pointed out that levels found in livers of animals were far lower than those used in tests, and today's action was not based on any known hazard to human health. DES has been used in the feed of cattle and sheep for nearly two decades, without a single known instance of human harm.

"Therefore," said the Commissioner, "in order to avoid an abrupt disruption in the production of the Nation's meat supply, the FDA will permit existing stocks of DES for feed to be used until January 1, 1973.

"This will permit an orderly phase-out and will provide the animal feeding industry an opportunity to switch to implants or to other methods of meat production." said Dr. Edwards.

Today's order makes final a preliminary proposal published for public comment on June 21. Under the law this proposal gave manufacturers 30 days to submit legal objections and to request a formal hearing.

Such objections and requests were received from 15 of the 25 holders of new animal drug approvals for the products.

In denying those requests, Dr. Edwards reiterated that the final withdrawal decision is predicated on new scientific evidence developed by the USDA's Agricultural Research Service and reported to him on Friday, July 28. This new study used an extremely sensitive radioactive tracer technique and showed that detectable residues could occur in cattle livers, even after withdrawal for seven days in conformance with current regulations. Prior to this experiment, all available tests had shown no measurable traces of DES in animal livers 48 hours after withdrawal.

On this basis, Dr. Edwards said: "We can only conclude that the animal feeding and pharmaceutical industries are unable at this time to suggest restrictions that are reasonably certain to be followed in practice and will at the same time eliminate all possibility of detectable residues. A hearing, therefore, would serve no useful purpose."

Use of DES as implants will continue to be allowed, pending results of tests now underway by the USDA and scheduled to be completed in the next several weeks. To this point USDA has never detected a residue when implants were used as the sole source of DES. Implants have been shown to be approximately as effective as DES in feed, even though used at a dosage level at least 30 times lower than that used in feed.

Further decisions on DES implants, including the possible need for a hearing, will await the results of these tests.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Rockville, Md., August 2, 1972.

Diethylstilbestrol (DES) in Animal Feeds

Because of widespread interest in the use of diethylstilbestrol (DES) in animal feeds, Commissioner Edwards has asked me to call to your attention the Food and Drug Administration's decision concerning the continued use of this drug.

The enclosed material provides a detailed explanation of the basis for FDA's decision to order an end to the use of DES in animal feeds as a growth stimulant. This decision follows the receipt of new data from a U.S. Department of Agriculture study which casts serious doubts on whether rules can be set sufficient to insure against residues remaining in animal livers at time of slaughter. It should be emphasized that this order is an administrative action dictated by strict provisions of law and is not based on any known hazard to human health from the use of DES in animal feed.

The order provides that, effective immediately, all new animal drug applications approved by FDA for DES-containing feeds are withdrawn. All production of DES intended for feeds must cease. Existing stocks of DES for feed may be used until January 1, 1973. Use of DES implants will continue to be allowed, pending results of tests now underway and scheduled to be completed in the next several weeks.

Either Mr. Wetherell, Mr. Hallerman, Mr. Brubaker or I (Phone 443-3793) would be pleased to provide any additional information you may desire concerning this decision.

GERALD F. MEYER,
Director, Office of Legislative Services.

[Docket Nos. FDC-D-452, 494; NADA Nos. 11-295V, 9525, et al.]

DIETHYLSTILBESTROL: ORDER DENYING A HEARING AND WITHDRAWING APPROVAL OF NEW ANIMAL DRUG APPLICATIONS FOR LIQUID AND DRY PREMIXES, AND DEFERRING A RULING ON IMPLANTS

In the Federal Register of March 11, 1972 (37 F.R. 5264), a notice of opportunity for a hearing was published announcing that the Commissioner of Food and Drugs proposed to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of new animal drug applications for diethylstilbestrol (DES) liquid premixes for use in the manufacture of feeds for cattle and sheep.

In the Federal Register of June 21, 1972 (37 F.R. 12251) a notice of opportunity for a hearing was published announcing that the Commissioner proposed to issue an order under section 512(e) of the act withdrawing approval of new animal drug applications for DES liquid and dry premixes for use in the manufacture of feeds for cattle and sheep and for DES implants for cattle and sheep. This notice stated that the earlier notice of opportunity for a hearing with respect to DES liquid premixes would be acted upon at the same time.

Objections and requests for a public hearing were received from 13 of the 25 holders of the new animal drug applications for DES liquid and dry premixes for use in the manufacture of animal feed for cattle and sheep. For the reasons stated below, a hearing is denied with respect to these new animal drug applications. The new animal drug applications for such products are hereby withdrawn, effective immediately.

This matter is a regulatory, not a public health, problem. The animal feeding industry, the pharmaceutical industry, and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that are reasonably certain to be followed in practice and that will result in the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued.

Because there is no evidence of a public health hazard, however, there is no justification for an abrupt disruption of the production of the nation's meat supply. An immediate ban on use of DES in feed could result in an unwarranted public concern and an unjustified increase in meat prices. It is estimated that there is about a 4 months supply of DES liquid and dry premixes already manufactured and at various stages in the chain of distribution. Accordingly, the Commissioner has determined that the manufacture of liquid and dry premixes will be discontinued effective immediately. Feeding of DES will be discontinued as soon as existing supplies are used up, but no later than January 1, 1973. This will permit both an orderly phaseout of the use of the drug in animal feed and an opportunity for the animal feeding industry to switch to DES implants, to other implants, or to other methods of meat production. DES implants and other implants have been shown to be approximately as effective for growth promotant purposes as DES in feed.

Objections and requests for a public hearing were also received with respect to all new animal drug applications for DES implants. For the reasons stated below, the Commissioner has concluded that the further testing now underway and scheduled to be completed within several weeks should be concluded before a ruling is made on these objections and requests for a hearing. Accordingly, such a ruling is deferred pending completion of those tests, at which time it will promptly be made and published in the Federal Register.

DES LIQUID AND DRY FEED PREMIXES

The following new animal drug applications for liquid and dry feed premixes for cattle and sheep were covered by the March 11 and June 21 notices of opportunity for a hearing:

Elanco Products Company, Post Office Box 750, Indianapolis, Ind. 46206. NADA Nos. 9525, 11090, and 42162.

Pfizer, Inc., New York, N.Y. 10017. NADA Nos. 9757 and 9770.

Walnut Grove Products, Division of W. R. Grace Co., Atlantic, Iowa 50022. NADA No. 10132.

Dawes Laboratories, Chicago, Ill. 60632. NADA Nos. 10421, 11485, and 34916.

Simonsen Manufacturing Company, Quimby, Iowa 51049. NADA No. 10566.

Hess and Clark, Division of Rhodia, Inc., Ashland, Ohio 44805. NADA Nos. 11295, 44344, 45982, and 45981.

Peter Hand Foundation, Inc., Waukegan, Ill. 60085. NADA No. 14773.

Thompson-Hayward Chemical Company, Kansas City, Kansas 66106. NADA Nos. 35019 and 35017.

Feed Additives, Inc., Fremont, Nebr. 68025. NADA Nos. 36313 and 37869.

Dale Alley Co., Post Office Box 444, St. Joseph, Mo. 64501. NADA Nos. 36671 and 36554.

Standard Chemical Manufacturing Company, Omaha, Nebr. 68103. NADA Nos. 36976 and 34735.

National Oats Co., East St. Louis, Ill. 62205. NADA Nos. 37148 and 37541.

Texas Nutrition & Service Co., Ft. Worth, Tex. 76108. NADA Nos. 38507, 38510, and 39509.

Bresley-Koelling, Inc., Ord, Nebr. 68862. NADA No. 39491.

Feed Products, Inc., Denver, Colo. 80211. NADA Nos. 39716, 39718, 39717 and 39715.

Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065. NADA Nos. 39772, 42840, and 10261.

Chemetron Corp., Chicago, Ill. 60611. NADA No. 42355.

Farmland Industries, Kansas City, Mo. 64116. NADA No. 42702.

Western Farmers Association, Seattle, Wash. 98111. NADA No. 44526.

Western Feed Supplements, Ellensburg, Wash. 98926. NADA No. 40014.

Ultra Life Laboratories, Inc., East St. Louis, Ill. 62201. NADA No. 38682.

Square Deal Fortification Co., Kouts, Ind. 46347. NADA No. 39161.

Falstaff Brewing Corp., St. Louis, Mo. 63166. NADA No. 44795.

American Cyanamid Co., Princeton, N.J. 08540. NADA No. 10258.

S. B. Penick Co., New York, N.Y. 10008. NADA No. 36479.

Of these all but the following firms submitted objections and requests for a hearing:

Peter Hand Foundation, Inc., Waukegan, Ill. 60085.

Feed Additives, Inc., Fremont, Nebr. 68025.

Dale Alley Co., St. Joseph, Mo. 64501.

National Oats Co., East St. Louis, Ill. 62205.

Texas Nutrition & Service Co., Fort Worth, Tex. 76108.

Feed Products, Inc., Denver, Colo. 80211.

Ultra Life Laboratories, Inc., East St. Louis Ill. 62201.

Square Deal Fortification Co., Kouts, Ind. 46347.

Falstaff Brewing Corp., St. Louis, Mo. 63166.

American Cyanamid Co., Princeton, N.J. 08540.

The Commissioner has concluded that these objections, in the light of new evidence from radioactive tracer studies on animals withdrawn from DES feed for 7 days, fail to show reasonable grounds for a hearing on a basis of evidence.

Virtually all of the objections and requests for a hearing fail to comply with 21 CFR 135.15(b), which requires that the objector file a full factual analysis of the data upon which it relies. In this case, the objections received generally rest upon mere allegations or denials and fail to set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing.

The objections contend that there are genuine and substantial issues of fact requiring a hearing as follows:

1. The number of violative residues may not actually have increased and, in fact, may have decreased.

2. New and more sophisticated laboratory methodology may be detecting residues at a level that previously was not detected.

3. The validity of the new methodology for detection has not adequately been established at the lower levels.

4. Some of the positives reported may be false positives rather than DES residues.

5. The compound found in animal livers is the monoglucuronide ester, not DES, and this ester has not been tested for carcinogenicity.

6. The level of compliance necessary to satisfy the statutory standard of "reasonably certain to be followed in practice" is unclear and, in any event, a degree of violation was contemplated by Congress.

7. The directions for use of DES may presently be inadequate and may be capable of improvement to assure the safe use of DES.

8. Present manufacturing controls may be inadequate to prevent cross-contamination of withdrawal feeds, and may be capable of improvement to preclude such cross-examination.

9. A substantial portion of the current violative residues may be the result of cross-contamination of withdrawal feeds rather than of misuse of the drug.

10. Some violative residues may be the results of other sources of DES contamination, rather than misuse of the drug, and more restrictive controls over DES and of animals on withdrawal feed may reduce or eliminate such violative residues.

11. There may be alternative restrictive conditions under which DES may safely be used, such as disposal of animal livers, restrictions on the size or capability of feed lots authorized to use the drug, or other means of testing cattle for DES withdrawal prior to slaughter.

12. Withdrawal of approval of DES may have adverse effects on the environment as a result of increased manure production per day and increased number of days required for feeding to a specific weight.

These objections were stated largely as questions, without a presentation or analysis of the data necessary to support hypotheses advanced and without specific data from tests designed to answer the questions or to support specific proposals or recommendations sufficient to correct the problems demonstrated. Changes in labeling and new restrictions to reduce or eliminate cross-contamination, misuse of the drug, or other sources of violative residues are properly requested through supplemental new animal drug applications rather than through a hearing.

The effectiveness of DES as a growth promotant has not been and is not questioned. Until Friday, July 28, 1972 the Commissioner was unaware of the existence of any data indicating that use under the conditions contained in the approved label would result in detectable residues of DES in the edible portion of animals. Prior studies, using the most sensitive research tools available, showed no detectable residues in the animal liver after 48 hrs. and even in inedible waste after 132 hrs. On December 8, 1971 (36 F.R. 23292), the withdrawal period was extended from 48 hrs. to 7 days as a prudent precautionary measure to provide an extra margin of safety.

On Friday, July 28, 1972, the Commissioner was informed of the results of a research study undertaken by the U.S. Department of Agriculture in which it was found, using radioactive-tagged DES in six steers, that detectable residues occurred in the liver from a single 10 mg. oral dose of DES after withdrawal for 3, 5, and even 7 days. Two steers each were slaughtered at 72, 120, and 168 hrs. after being fed the radioactive-tagged DES. The results of that study are as follows:

Hours after withdrawal:	*Parts per billion residue in animal liver*	
72	1.06	.41
120	.65	.15
168	.21	.52

These cattle were fed 10 mg. DES twice daily for a sufficient time period to establish the usual feeding pattern and were then fed a single radioactive-tagged 10 mg. dose of DES. Because only this split dose was tagged, FDA and USDA scientists project from these data that, even after withdrawal for 7 days, some cattle fed the approved level of 10 mg. DES twice daily in liquid or dry feed could be expected to have up to 1 p.p.b. DES in the liver.

From earlier data, it was thought that the half-life of DES in the animal was 12 hrs. The new data show that, after 3 days, the elimination rate appears to decrease substantially. Because the experiment has not been carried out for longer than 7 days, it is impossible at this time to determine the rate of residue elimination beyond this period. It is hypothesized that, after 30 days withdrawal, the residue would be reduced to the practical equivalent of zero. There are, however, no data available to substantiate this hypothesis. The law requires that the holder of a new animal drug application submit all data necessary to show that it is possible to use the drug without any residue remaining in the edible portions of the animal. In the absence of such data, the new animal drug application must be withdrawn.

Even if data were available to demonstrate a suitable withdrawal period, it is now questionable whether a sufficiently precise regulatory surveillance method is available to permit continued approval of the drug in animal feed. In view of the new USDA study, it now appears that the test results thought possibly to be false positives may indeed have been true positives. The Commissioner is unaware of any data which could reasonably be interpreted to show that a 30-day feed withdrawal period, which in any event can only be hypothesized as a suitable withdrawal period, would be reasonably certain to be followed in practice. Even if a 30-day withdrawal period were ordered, no regulatory surveillance method now available would be sufficiently sensitive to detect violations of this requirement. The imposition of new and more stringent restrictions on the use of DES in feed, such as an increased withdrawal period, measures to avoid cross-examination, and similar requirements, is therefore no longer a controlling factor in view of the new USDA study showing that even proper use of the drug under existing restrictions may result in violative residues.

Neither the new USDA study nor other information available to the Commissioner demonstrates that there are residues of DES in muscle tissue, which represents the major source of meat for the country. This raises the possibility of permitting continued use of DES in animal feed but of destroying beef livers and kidneys from any animals so fed. The Commissioner has concluded, however, that there are insufficient scientific data on which to base a clear decision on when DES residues will not be found in muscle tissue. In addition, no evidence has been submitted with the objections or is otherwise known to the Commissioner that would permit a conclusion that a requirement that the liver and kidneys of cattle fed DES must be destroyed would be reasonably certain to be followed in practice. The maintaining of identification and records to differentiate between animals fed DES and animals not fed DES would be extremely difficult. Such a control system would require a significant change in the method of handling cattle in this country, the complexity of which does not permit such institution hurriedly or on the basis of conjecture. If any such system is to be developed, it must be the subject of pilot programs conducted through investigational new animal drug plans that will demonstrate its feasibility and after further radioactive tracer studies which show the exact time when residues in muscle tissue are eliminated.

The new USDA study involved only cattle, and not sheep. The information available to the Commissioner, however, shows that the problem of DES residues is approximately the same in both animals. Previous data establish roughly the same level of residue under the same conditions of DES use in feed. Violative residues have been found in sheep at roughly the same rate as in cattle. The two animals are biologically quite similar. Accordingly, the Commissioner concludes that there is no basis for distinguishing between them with respect to approval of DES for use in feed.

Finally, the Commissioner has reviewed the potential environmental impact of this action. It has been estimated that there would be a substantial increase in animal waste and in available nitrogen if DES were to be withdrawn from use as an animal growth promotant. In view of the fact that this action permits the continued use of DES implants pending the results of a study now in progress, as described below, and in view of the availability of at least one alternative implant drug, the Commissioner is unable to conclude that the environmental aspects of this problem outweigh the clear requirements of the law. Pursuant to proposed § 6.3(c) of the proposed regulations governing environmental impact considerations published in the Federal Register of July 12, 1972 (37 F.R. 13636), the Commissioner has concluded that the Federal Food, Drug, and Cosmetic Act requires immediate action on this matter without preparation and filing of a draft or final environmental impact statement. By publication of this

order, the Council on Environmental Quality and the public are so informed.

For the foregoing reasons, therefore, the Commissioner concludes that the objections fail to demonstrate the existence of a genuine and substantial issue of fact and, accordingly, a hearing is denied with respect to the use of DES in liquid and dry premixes for feed for cattle and sheep.

This action is required under the strict terms of sections 512(d)(1)(H) and 512(e)(1)(B) of the act. These provisions, which contain the so-called Delaney Clause, require that there be no detectable residue. The new USDA study clearly shows residues at levels that are in the range of current detection methodology; new detection methodology is being developed that would be significantly more sensitive. Thus, under the law there is no alternative but to withdraw approval of the drug, even though there is no known public health hazard resulting from its use.

It should be emphasized that the Commissioner has no reason to believe that use of DES in animal feed represents a public health hazard. No human harm has been demonstrated in over 17 years of use. Under the law, however, this continued use of the drug may no longer be permitted.

The Commissioner has concluded that withdrawal of approval of the new animal drug applications for the DES liquid and dry premixes should be effective immediately. This means that these premixes may not be manufactured effective as of the date of publication of this order in the Federal Register.

In the Commissioner's judgment, although withdrawal of approval is warranted by the facts, the continued use of meat from animals fed DES, of feed already containing DES, and of premixes already manufactured does not present a health hazard. Approval is being withdrawn not because there is a proof of danger from DES, but because at this time the new USDA study shows a lack of clear and convincing proof that the requirements of the law are fully satisfied. Accordingly, no recall or cessation of shipment or use of existing stocks is warranted. As long as there is no further manufacturing of these premixes, existing supplies of feed and premixes may be used in an orderly phaseout of the drug. In order to place an end point on this phaseout, the Commissioner has determined that all feeding of DES shall be discontinued by January 1, 1973.

DES IMPLANTS

The following new animal drug applications for DES implants for cattle and sheep were covered by the June 21 notice of opportunity for a hearing:

Pfizer, Inc., New York, N.Y. 10017. NADA Nos. 9783 and 11356.

Vineland Laboratories, Inc., Subsidiary of Damon, Vineland, N.J. 08360. NADA No. 10964.

Hess & Clark, Division of Rhodia, Inc., Ashland, Ohio 44805. NADA No. 12553.

O. M. Franklin Serum Co., Denver, Colo. 80216. NADA No. 15274.

Fort Dodge Laboratories, Fort Dodge, Iowa 50501. NADA No. 31446.

E. R. Squibb & Sons, New Brunswick, N.J. 08902. NADA No. 11365.

The new USDA study did not include implants. Earlier testing has shown that implants result in no detectable residues, and that there is at least a 10-fold, and probably a 30-fold or greater, difference in the potential for such residues. Thus far, the USDA in its sampling program has not found a single residue resulting from the implants alone, but the significance of that fact is uncertain because there is no information on the amount of cattle administered DES solely by implant and the USDA sampling has uncovered instances in which a residue was found in animals fed DES and implanted at the same time.

Use of implants represents a substantially reduced total dose of DES as compared with use of medicated feed. The 20 mg. per day normal dose of DES in feed represents 3,000 mg. per head over the customary 150 days of feeding. During the same period, the maximum dose of DES that would be expected from the use of implants would be approximately 100 mg. per head, based upon the approved use of three 12 mg. implants for a 60-day period, and this dose would ordinarily be less because a smaller implant is customarily used when the animal is younger. This difference represents at least a 30-fold dosage factor, with respect to both the possibility of residues and any potential environmental impact.

USDA had previously begun preparations for a radioactive tracter study using implants. The test using these radioactive-tagged implants has just begun, and the results will be available within several weeks.

The Commissioner has therefore concluded that it is premature to rule at this time on the objections and requests for a hearing with respect to DES implants. A ruling on this matter will await the results of the USDA implant study now underway.

At the present time, the Commissioner has no reason to believe that DES implants raise a public health hazard. Thus, while it is prudent to pursue and to resolve existing scientific questions about DES implants, it is unnecessary to remove existing implants or to be concerned about the safety of meat from animals implanted with DES.

CONCLUSION

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the requests for evidentiary hearings with respect to the above-listed new animal drug applications for DES liquid and dry premixes for cattle and sheep are denied and approval of the applications, including all amendments and supplements thereto, is hereby withdrawn. Manufacturing of such premixes shall stop immediately, and feeding of existing supplies of such premixes shall stop as soon as existing supplies are exhausted but in any event no later than January 1, 1973. The Commissioner defers a ruling on withdrawal of the above listed new animal drug applications for DES implants for cattle and sheep. This order shall be effective on its date of publication in the Federal Register.

As referred to the Committee on Labor and Public Welfare, this bill would have imposed an immediate ban on the use of DES in feeds or implants. Since the testimony made it clear that there is no evidence whatever of detectible residues from DES implants alone, the bill was modified to apply the immediate ban only to DES in feeds. DES implants would be prohibited as of January 1, 1973, unless the FDA determines before then that such implants, when used in accordance with labeling requirements "reasonably certain to be followed in practice," leave no detectible residues. The only practical effect of this would be to require the FDA to evaluate the tests on implants now being conducted by USDA and make a determination before January 1.

With this background, it should not be necessary to point out that it is misleading to claim, as the committee report does, that this bill is necessary to protect the American public from DES. First, although DES has been proven to cause cancer in laboratory mice, there is absolutely no evidence that trace residues from DES in cattle feeds can cause cancer in humans. The hearing record on S. 2818 is very clear on this. The only evidence that DES may be carcinogenic in humans is based on a 1970 study which suggests that seven cases of vaginal cancer in young women may have been caused by direct therapeutic doses of DES to their mothers during pregnancy. Scientists have not yet concluded that there is a casual relationship. Even assuming there is, it is a long jump from there to the conclusion that trace residues in beef livers or kidneys present a threat of cancer. Therapeutic doses of DES ranging from 1.5 to 125 milligrams per day during pregnancy are not quantitatively comparable with trace residues of one to two parts per billion in liver. No scientist has been willing to make that jump, as one lay member of the Labor and Public Welfare Committee, I do not pretend to have the expertise to make it either.

Second, even assuming that trace residues from DES in feeds do present a health hazard, existing law, if fully enforced, is adequate to protect the public. Again, the Delaney clause in the Food, Drug, and Cosmetic Act specifically requires the FDA to withdraw animal drugs which leave detectible residues in edible tissues, regardless of whether such residues present a health hazard. Under this requirement, the FDA ordered a ban on further production of DES for use in feeds, even though it found no health hazard from DES residues. I thought that the committee decided to apply this bill's immediate ban on existing DES stocks as well because the detectible residue test in the Delaney clause required it, not because, as the committee report indicates, "if the substance is hazardous enough to be banned, then it is hazardous enough to be banned immediately." Moreover, the FDA has authority to immediately remove from the market any drug which it finds to present an "immediate hazard" to health. The FDA did not use that authority with DES in feeds because, again, all available scientific evidence indicated trace residues present no hazard to health.

Another point which needs to be made is that this bill establishes a bad precedent for dealing with so-called carcinogenic drugs on an ad hoc basis. There are hundreds of known carcinogens. Many occur naturally in the environment. Recognition of this raises some difficult questions. First, assuming scientists can eventually establish levels below which potential cancer-causing agents present no danger to man, or below which the risks are outweighed by the benefits, what kind of legislation is needed to regulate their use? The Delaney clause operates on the assumption that the presence of potential carcinogens in the food supply is intolerable, however minute the amounts. As detection methods become more and more refined, theoretically such agents in amounts all the way down to zero could be detected. In that event, the Delaney clause could prohibit the addition of water to cattle feeds, because it may contain naturally occur-

ring carcinogenic agents in trace amounts.

On the other hand, until we are sure that detection methods are 100-percent reliable, would it be wiser to abandon the detectible residues test, and attempt to eliminate the use of known carcinogens entirely? Dr. Rauscher, Director of the National Cancer Institute, testified that we should, and that appears to be the underlying basis of this bill. If we are going to move in that direction, what consideration should be given to the benefits versus the risks of different carcinogens?

For instance, on the ground that the benefits outweigh the risks, physicians continue to prescribe daily oral contraceptives containing a known carcinogen—estrogen—in 100 to 200 times the amounts in which it has occasionally been detected in DES residues.

Questions like these cannot be adequately dealt with in ad hoc legislation such as this bill. In the committee's rush to get on record as opposing cancer, questions like what effect the removal of DES would have on meat prices—one estimate was 10 to 15 cents a pound for sirloin—or the risks involved in using any of the several other growth stimulants as substitutes for DES, were brushed lightly aside. As one of the sponsors of the comprehensive cancer legislation we enacted last year, I am as concerned about cancer as anyone. But I do not think the piecemeal, shot-in-the-dark approach of this bill is a sensible way to do something about it. Unanswered questions like the ones I have raised should be carefully explored in thorough hearings on the subject of regulating the use of potential carcinogens. For that reason, I was pleased to note Senator KENNEDY's commitment to hold Health Subcommittee hearings on the Delaney clause next year.

Mr. HANSEN. Mr. President, while I certainly share the concern of the Senator from Wisconsin about insuring that all feed products are safe, it is critically important that feeds are not categorized unsafe without justification.

On July 20, 1972, I received correspondence from the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. This letter, signed by Mr. D. L. Houston of the meat and poultry inspection program stated clearly that when properly used DES—diethylstilbestrol—does not result in a public health hazard.

Mr. Houston pointed out that the DES control program has been developed jointly with the Food and Drug Administration. He explained the program requires the rejection of cattle and sheep marked for slaughter unless the owner certifies either that the animals did not receive DES during their production, or that they did receive DES during their production, or that they did receive DES but at FDA prescribed dosages and were withdrawn from the DES feed 7 days before slaughter.

On August 2, 1972, I received notification from the Food and Drug Administration that the FDA had made the decision to order an end to the use of DES in animal feeds as a growth stimulant. It was emphasized in the notification from the Director of Legislative Services, Gerald F. Meyer, that the decision was not based on any known hazard to human health from the use of DES in animal feed. Mr. Meyer said the order was an administrative action based upon data from a USDA study which cast doubts on whether sufficient rules could be set to insure against residues remaining in animal livers at time of slaughter.

Mr. President, the FDA ordered the manufacture of liquid and dry pre-mixes discontinued effectively immediately, with feeding of DES discontinued as soon as existing supplies were used up, but no later than January 1, 1973.

As I understand it, the ban on DES was issued—not because it posed a danger to human health, in amounts far in excess of those found, but because of an existing law that makes it illegal to feed carcinogens to meat animals if there is any residue left in the meat, any residue at all, even if only in the liver of an animal.

Competent medical authority has told me that there is far greater danger to human health from exposures to the carcinogens in the air in a room where cigarettes are being smoked than would result from eating meat with DES residue far in excess of that found in carcasses so far tested.

It may be proved conclusively within a short period that trace residues of DES can in no way be harmful to human health. Yet the legislation of the Senator from Wisconsin, if it becomes law, would be on the books prohibiting use of a chemical that has enabled the American consumer to have meat a little cheaper than he would have been able to have it otherwise.

On August 3, 1972, the president of the American Cattlemen's Association, Mr. John Trotman, estimated that beef prices would climb as much as 10 cents per pound for hamburger. Perhaps this substantial increase will not be sufficient to cause Americans to turn to other products for a major source of protein. They possibly could go to poultry, or dairy products, or fish. I do not know. Some of our best food fish have been in trouble because of alleged mercury contamination.

Mr. President, I am concerned about rising food costs at any time, and especially if it is determined that we have through hasty action unnecessarily caused an increase in food prices, when there was in fact no danger to the public health.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Massachusetts has stated that he is willing to yield back the remainder of his time if the Senator from Nebraska is willing to yield back the remainder of his time.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment in the nature of a substitute. (Putting the question.)

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2818) was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECOGNITION OF SENATORS STEVENSON, MOSS, BURDICK, KENNEDY, AND HART TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately after the two leaders have been recognized under the standing order, the following Senators be recognized each for 15 minutes and in the order stated: Senator STEVENSON, Senator Moss, Senator BURDICK, Senator KENNEDY, and Senator HART.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the orders for the recognition of Senators tomorrow there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 3 minutes.

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

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 3327.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was stated by title as follows:

A bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and ex-

pansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment.

The amendment of the Committee on Labor and Public Welfare was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Health Maintenance Organization and Resources Development Act of 1972".

SEC. 2. (a) The Congress finds that—

(1) there is a shortage and maldistribution of quality health care resources which has resulted in limited access to quality health care in the United States;

(2) the present health care system is not organized in a manner which encourages the efficient and economical provision of quality health care;

(3) the present health care system is oriented toward providing care to those manifesting disease, rather than toward providing health maintenance services and maintaining good health;

(4) the establishment of health maintenance organizations, health service organizations, and area health education and service centers will aid in alleviating the serious maldistribution of health care resources which has resulted in inadequate access to medical care particularly in both inner city and rural areas, in providing health care in a more efficient and economical manner, and in reorienting the health care system toward the maintenance of health;

(5) there is a need to provide technical assistance and resources to individuals and groups, undertaking the planning, development, and initial operation of health maintenance organizations, health service organizations, and area health education and service centers;

(6) there is a shortage of educational facilities in health sciences, unbalanced emphasis on hospital practice and on rare and exotic diseases in medical education; and

(7) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in improving the system for the delivery of health care through encouragement of and support for the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers, particularly with the intent of improving the health of populations in medically underserved areas.

TITLE I—HEALTH MAINTENANCE ORGANIZATIONS

SEC. 101. The Public Health Service Act is amended by inserting after title X the following new title:

"TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1101. For purposes of this title:

"(1) The term 'health maintenance organization' means an entity which—

"(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformly available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, for a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"(E) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided; and (iii) in the contribution the patient can make to the maintenance of his own health;

"(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health centers provided meet the requirements of the Commission on Quality Health Care Assurance;

"(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship) an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availibility, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"(I) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance or health service organization who are temporarily outside the service area of the health maintenance, supplemental health maintenance, or health service organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"(L) provides, or makes arrangements for continuing education for its staff;

"(M) emphasizes the use of nurse practitioners, physicians' assistants, dental therapists and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"(O) may purchase on a fee-for-service basis unusual or infrequently used health care service for its enrollees;

"(P) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse or of addition to alcohol and drugs either through its own facilities or existing community facilities; and

"(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"(2) The term 'comprehensive health services' means health services provided without limitation as to time or cost as follows—

"(A) physician services (including consultant and referral services);

"(B) inpatient and outpatient hospital services;

"(C) home health services;

"(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

"(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"(H) medical social services;

"(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"(J) physical medicine and rehabilitative services (including physical therapy);

"(K) mental health services utilizing existing community mental health centers on a priority basis;

"(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

(3) The term 'medical group' means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligi-

ble for assistance under this Act, in conformance with requirements promulgated under section 1202, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records, and substantial portions of major equipment and professional, technical, and administrative staff; (D) share or jointly utilize such additional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physicians' assistants, nurse practitioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, supplemental health maintenance organization (as defined in part B), or health service organization (as defined in part C) means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or a health service organization under which such organization assumes the responsibility for the provision of health services to such individual.

"(5) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"(6) The terms 'construction' and 'cost of construction' include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, and acquisition of land, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) The term 'university health center' means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"(8) The term 'area health education and service center' means a hospital, educational facility, or other public or private nonprofit entity affiliated with a university health center for the purpose of providing clinical training (stressing cooperative interdisciplinary training in the use of the team approach to the provision of health care services) in a nonmetropolitan area (other than an area presently served by a university health center) which—

"(A) has an agreement with a health maintenance organization or health service organization (if such an organization exists within the geographical area served by such center) to provide education services to, and health care services through such organization;

"(B) has an agreement with other providers of health care to provide education services to, and health care services through such center; and

"(C) provides, to all health professionals belonging to disciplines eligible for assistance under this Act in the geographic area which it serves, equal opportunity to use its facilities and programs.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"(10) The term 'non-profit provider group' means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"(11) The term 'high-risk enrollee' means a person who is likely to utilize the services of a provider of health care more often than an actuarily determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1102. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1103. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit agencies, organizations, or institutions, to assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activiites; and (5) payment of architects' and engineers' fees.

"(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(d) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1104. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1105. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1106. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two

succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COSTS OF OPERATION

"SEC. 1107. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"PART B—SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1108. (a) From funds appropriated under part A of this title which remain unobligated in any given fiscal year, the Secretary in the next succeeding fiscal year, may make grants and loans to a supplemental health maintenance organization (as defined in section 1109).

"(b) No assistance shall be given under this section unless the Secretary certifies to the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives, that there were insufficient qualified eligible applicants for grants and loans under part A in the fiscal year in which funds were originally appropriated for the purposes of such part.

"DEFINITIONS

"SEC. 1109. For the purposes of this part and part E—

"(1) The term 'supplemental health maintenance organization' means a public or private organization which—

"(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per capita prepayment basis;

"(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"(C) provides physicians' services (i) directly through physicians who are either employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services; efficiently, effectively, and economically and in a manner which assures continuity;

"(E) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance; and

"(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative."

TITLE II—SUPPORT OF HEALTH SERVICE ORGANIZATIONS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to assist in the establishment of health service organizations primarily directed at defined rural population groups which are characterized by a lack of medical care services.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 202. The Public Health Service Act, as amended by this Act, is further amended by inserting after part B of title XI the following new part:

"PART C—HEALTH SERVICE ORGANIZATIONS

"DEFINITIONS

"SEC. 1120. For the purpose of this part the term—

"(1) 'health service organization' means an entity operating in a rural or nonmetropolitan area which—

"(A) provides as a minimum for all its enrollees, indirectly or directly through its own staff and supporting resources or through a medical group or groups, comprehensive health services, to the extent the Secretary determines such organization is able, which are uniformly available to all its enrollees, and such additional services as may be required through other health delivery entities, for a fixed payment which—

"(i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and

"(ii) is uniform for all its enrollees, subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate health services are available and accessible to all its enrollees promptly in a manner which assures continuity;

"(C) has a written agreement with an area health education and service center for the use of the educational and service facilities and programs of such center, if such a center is located in the geographic area served by such health service organization;

"(D) provides, to the extent the Secretary determines such health service organization is able, continuing education for its staff;

"(E) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(F) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally denned as one-third representation in the body establishing or recommending policy) in the making of policy for the health service organization and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health service organization (including the medical group or groups and other health delivery entities providing health services) and (ii) between the medical group or groups providing health services and other employees of the health service organization;

"(G) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided;

"(H) has organizational arrangements established in accordance with regulations of the Commission on Quality Health Care Assurance for an ongoing quality assurance program which stresses health outcomes, and assures that health services provided meet quality standards established in accordance with requirements of the Commission on Quality Health Care Assurance;

"(I) provides in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operation, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and discloses at least annually in a manner acceptable to the Secretary such data to its enrollees and to the general public;

"(J) except for (i) out-of-area emergency services; and (ii) care reasonably valued in excess of the first $5,000 per enrollee, per year assumes direct financial responsibility without benefit of insurance, on a prospective basis for the provision of comprehensive health services as defined in section 1101(2);

"(K) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity;

"(L) assumes responsibility for health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance, supplemental health maintenance, or health service organization who are temporarily outside the service area of the health maintenance or health service organization in which they are enrolled) twenty-four hours a day, seven days a week and for the appropriate availability of such services in emergencies;

"(M) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(N) emphasizes the use of physicians' assistants, dental therapists, nurse practitioners, and other allied health personnel, and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services; and

"(O) meets such other criteria including plans for providing full comprehensive health services at a future date where the Secretary has determined such an organization was not able to provide such health services under paragraph (A), for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1121.(a) The Secretary may make grants subject to the general provisions of

this title to public or private nonprofit agencies, organizations, or institutions to assist in meeting the costs of projects for planning or studying the feasibility of developing or expanding a health service organization. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period, not to exceed two years from the date of the award, designated by the Secretary.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1122.(a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit entity to assist it in meeting the costs involved in a project for the initial development of a health service organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years and shall be utilized for such purposes as may be prescribed in regulations of the Secretary including but not restricted to (1) implementation of an enrollment campaign, (2) detailed design of an arrangement for the health services to be provided, (3) development of administrative and internal organizational arrangements including fiscal control and fund accounting procedures and the development of a capital financing program, (4) recruitment of personnel and the conduct of personnel training activities, and (5) payment of architects' and engineers' fees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUUCTION GRANTS

"SEC. 1123. (a) (1) The Secretary may make grants subject to the general provisions of this title to assist any public or private nonprofit health service organization in meeting the cost of construction of facilities or portions thereof for ambulatory care and capital investment for necessary transportation and communication equipment to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances in which costs up to 90 per centum of the cost of construction may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction on such project. No project may receive more than $2,500,000 in grants under this section.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COST OF OPERATION

"SEC. 1124. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public or private nonprofit health service organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1125. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization or any public or private nonprofit agency, organization, or institution intending to become a health service organization to assist in in meeting the cost of construction and facilities for ambulatory care and transportation and communication services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other receipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COST OF OPERATION

"SEC. 1126. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day and such loans with respect to any project may not exceed 60 per centum of such initial operating costs for the first year after such first day; 40 per centum of such initial operating costs for the second year after such first day and 20 per centum of such initial operating costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other recipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section."

TITLE III—AREA HEALTH EDUCATION AND SERVICE CENTERS AND GENERAL REQUIREMENTS

SEC. 301. The Public Health Service Act, as amended by this Act, is further amended by inserting after part C of title XI the following new parts:

"PART D—GRANTS TO ASSIST AREA HEALTH EDUCATION AND SERVICE CENTERS

"STATEMENT OF PURPOSE

"SEC. 1130. It is the purpose of this part to—

"(1) promote cooperative arrangements between area health education and service centers and health service organizations;

"(2) provide for and encourage, the continuing education of providers of health care services in a designated area and stressing cooperative interdisciplinary training in the use of the team approach to the provision of health services;

"(3) provide for and encourage clinical experience in a nonmetropolitan setting for students from university health centers; and

"(4) encourage the utilization of regional medical programs where such programs exist.

"GRANTS FOR COSTS OF DEVELOPMENT

"SEC. 1131. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist in meeting the costs involved in the development of area health education and service centers.

"(b) Funds awarded under such grants shall be available for expenditure by the grantee for a maximum of three years and shall be utilized for such purposes as may be prescribed in regulation by the Secretary, including but not limited to: (1) detailed design of and arrangements for education, health and medical services, and integration with the institution's research and educational programs; (2) development of administrative and internal and organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; and (3) recruitment of personnel and conduct of personnel training activity.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973; $50,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975.

"CONSTRUCTION OF FACILITIES

"SEC. 1132. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist them in the construction and equipment of educational facilities in conjunction with the development of area health education and service centers. An award under this authority shall be made only after the Secretary has determined that assistance for the construction proposed has been sought and is not available under titles I and II of the Medical Facilities Construction and Modernization Amendments of 1970 and title IX of the National Housing Act.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $25,000,000 for the fiscal year ending June 30, 1975.

"PART E—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1140. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1141. No payment of principal on a loan shall be required for the first five years after such loan is made.

"(b) No such loan shall be made unless—

"(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the

Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(d) No such loan shall have a term in excess of fifteen years.

"(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"LOAN GUARANTEES AND INTERESTS SUBSIDIES

"SEC. 1141. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, or to meet their initial development costs (for not more than three years) or to meet their costs of operation (for not more than three years), (2) assist university health centers, regional medical programs, and other non-profit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1973, and ending with the close of June 30, 1975, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or health service organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan gaurantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, health service organization, university health center, regional medical program, or other non-profit provider unless—

"(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes; and

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all the rights of the recipient of the payments with respect to which the guarantee was made.

"(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(f)(1) There is established in the Treasury a Health Maintenance Organization, Health Service Organization and Area Health Education and Service Center Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets.

"(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"(g)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(2) In any fiscal year no loan guarantee or agreements to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

"(A) the principal of the loans guaranteed under this title in such fiscal year, and

"(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"APPLICATION REQUIREMENTS

"SEC. 1142. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b)(1), as the Secretary shall by regulation prescribe.

"(b)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization, supplemental health maintenance organization, or health service organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evalu-

ations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(2) Upon completion of assistance under this title, the recipient of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"(c) A health maintenance organization, supplemental health maintenance organization, health service organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance.

"(d) (1) An application for a grant or for a loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(2) No grant may be made and no loan, loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which it determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act, or the mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1202.

"EFFECT ON STATE LAW

"SEC. 1143. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health maintenance organization, supplemental health maintenance organization, or health service organization by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization, supplemental health maintenance organization, or health service organization;

"(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"(4) require that such organization submit to regulations as an insurer of health care services;

"(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"(6) prohibit advertising by a professional group for recruitment of enrollees; or

"(7) impose requirements or restrictions on a health maintenance organization, supplemental health maintenance organization, or health service organization in a manner determined by the Secretary to be incompatible with this title,

a health maintenance organization, a supplemental health maintennace organization, a health service organization (as defined in this title), or other providers of health care receiving quality health care initiative awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State, shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"QUALITY HEALTH CARE INITIATIVE AWARDS

"SEC. 1144. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to 2 per centum of the gross revenues of such provider attributable to the delivery of health care services in order to defray expenses associated with such compliance. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1202.

"(b) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $300,000,000 for the fiscal year ending June 30, 1974; and $500,000,000 for the fiscal year ending June 30, 1975.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS, SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS, AND HEALTH SERVICE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1145. (a) (1) The Secretary shall make annual grants to health maintenance organizations, supplemental health maintenance organizations, or health service organizations serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants shall be equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance, supplemental health maintenance or health service organization premium and the premium for membership enrollment in such health maintenance, supplemental health maintenance or health service organization for each such person enrolled.

"(2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"(3) Grants under this section shall not exceed 25 per centum of the total premium receipts for such health maintenance, supplemental health maintenance or health service organization for the next preceding year.

"(4) There are authorized to be appropriated to carry out the provisions of this section $150,000,000 for the fiscal year ending June 30, 1973; $375,000,000 for the fiscal year ending June 30, 1974; and $700,000,000 for the fiscal year ending June 30, 1975.

"(b) (1) Where a health maintenance, supplemental health maintenance, or health service organization proposes an increase in its premium rate and the Secretary determines that such increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary shall make annual grants to such organization equal to an amount that would eliminate the need for that part of the proposed premium increase caused by such disproportionate number of high-risk enrollees in such organization.

"(2) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $350,000,000 for the fiscal year ending June 30, 1975.

"PAYMENT OF GRANTS

"SEC. 1146. The amount of any grant under this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necesary.

"PROHIBITION ON TRANSFER OF FUNDS

"SEC. 1147. (a) No funds appropriated pursuant to any of the preceding sections of this title shall be available for any purposes other than the purposes of the program authorized by the particular section pursuant to which such funds are appropriated.

"(b) No funds, except those appropriated under this title, shall be used for the purposes of carrying out the provisions of this title.

"(c) Only funds appropriated under titles IX and XI of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, supplemental health maintenance organization, health service organization, and any other entity that provides, either directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1148. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"OPEN ENROLLMENT WAIVER

"SEC. 1149. In a case where all appropriated funds are expended under section 1145(b)(2) and where a health maintenance organization, supplemental health maintenance organization, or health service organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enroll-

ment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance, supplemental health maintenance, or health service organization may receive more than one waiver."

TITLE IV—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 401. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1972".

STATEMENT OF PURPOSE

SEC. 402. It is the purpose of this title to promote the quality of health care in the United States by establishing a Commission on Quality Health Care Assurance to develop, establish, and encourage parameters and standards for quality health care.

SEC. 403. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XI the following new title:

"TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established (as an independent agency in the executive branch) a Commission on Quality Health Care Assurance.

"(b) The Commission shall be composed of eleven members to be appointed by the President by and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be five years except that—

"(1) the members first appointed shall serve, as designated by the President, three for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(3) a member shall be eligible for reappointment for one additional term.

"(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"(2) conduct such research and experimental programs as are determined necessary for the development of—

"(A) criteria for new and improved quality assurance systems, and

"(B) norms, with regard to processes, utilization characteristics, and outcomes;

"(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2) quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"(A) improve as well as assess the quality of health care;

"(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"(C) concentrate on those illnesses which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"(D) improve as well as assess the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance, supplemental health maintenance, or health service organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"(4) issue certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards, approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission;

"(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the performance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

"(8) conduct a program of research and development which shall have the objectives of—

"(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"(C) analyzing the effects of providing information to consumers and improvement in the methods of information dissemination;

"(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"(E) coordinating the collection, assimilation, and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship,

"(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"(10) provide technical assistance to providers of health care in the development of quality control programs;

"(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"(12) administer the reinsurance program established under part B of this title;

"(13) interface with National Institute of Health Care Delivery established under title XIII of this Act;

"(14) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1209; and

"(15) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies, and analysis of the results of the reinsurance program and the results of arbitration procedures under part B of this title.

"ADMINISTRATIVE POWERS

"SEC. 1203. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"(2) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise it with respect to his functions under this Act;

"(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(9) take such actions as may be required

for the accomplishment of the objectives of the Commission.

"(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks.

"(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"(1) the appointment and supervision of personnel employed by the Commission;

"(2) the distribution of jobs among the personnel of the Commission; and

"(3) the use and expenditure of funds.

"COMPENSATION

"SEC. 1204. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(96) Members, Commission on Quality Health Care Assurance (10).

"'(97) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

"SEC. 1205. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1202 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1202 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"REPORTS AND MAINTENANCE OF RECORDS

SEC. 1206. (a) Each provider, covered under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"SEC. 1207. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrollee, the following:

"(1) fees and prices;

"(2) scope of services included in benefit packages;

(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location, and amenities;

"(4) the name and type of administration of the plan; and

"(5) a statement of certification by the Commission.

"(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"(f) Every provider shall furnish a copy of the plan description (including amendments or modifications thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"PENALTIES

"SEC. 1208. (a)(1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1202. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"(b) Any provider who willfully or repeatedly violates the requirements of section 1207 (concerning disclosure) may be assessed a civil penalty of not more than $10,000 for each such violation.

"(c) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"(d) Civil penalties owed under this title shall be paid to the Secretary for a deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States or in the United States district court for the district where the violation is alleged to have occurred or where the provider has its principal office.

"ARBITRATION

"SEC. 1209. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1202 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary

boards for each such arbitration procedure under the territorial jurisdiction of such board.

"(d) (1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(3) A closing statement shall be filed with the Commission with every proceeding in which a retainer statement is required containing such information as the Commission shall require.

"(4) All statements of retainer or closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIAL AND NORMS

"SEC. 1210. (a) The Commission may, by rule, promulgate, modify, or revoke any quality health assurance system criterion or norm in the following manner:

"(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title, the Commission shall publish such proposed rule promulgating, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission written objections to the proposed rule stating the grounds therefor and requesting a public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"(3) within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register, a rule promulgating, modifying, or revoking standards, criteria for quality health care assurance systems or norms, or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criteria or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated, file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criteria or norm. The determinations of the Commission shall be conclusive if supported by substantial evidence in the record considered as a whole.

"(c) (1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearings to be necessary.

"(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"STATE JURISDICTION AND STATE PLANS

"SEC. 1211. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issue with respect to which no standard criterion, or norm is in effect under section 1202 of this Act.

"(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1202, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"(1) designate a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1202 which relate to the same health issues;

"(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards, criteria, and norms;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health program applicable to all provides of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"(8) provides that the State agency will make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"(e) After the Commission approves a State plan submitted under subsection (b), it may, but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1202, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

"(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(h) The Commission may enter into an agreement with a State under which the

State will be permitted to continue to enforce one or more health standards, criterions, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this title, whichever is earlier.

"PROCEDURES TO COUNTERACT IMMINENT DANGERS

"SEC. 1212. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it is recommending to the Commission that relief be sought.

"(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Commission to seek such an order and for such further relief as may be appropriate.

"DEFINITIONS

"SEC. 1213. For the purposes of this title, the term—

"(1) 'input measure' means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"(2) 'process measure' means assessment based upon the conformance of medical decisions and actions taken in actual episodes of care to some defined standards of medical practice;

"(3) 'utilization characteristics' means those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"(4) 'outcome measure' means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"(5) 'Commission' means the Commission on Quality Health Care Assurance;

"(6) 'reinsurance program' means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"(7) 'norm' means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1214. There are authorized to be appropriated for the carrying out of the provisions of this part $75,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $110,000,000 for the fiscal year ending June 30, 1975.

"PART B—FEDERAL MEDICAL MALPRACTICE REINSURANCE PROGRAM

"PROGRAM ESTABLISHED

"SEC. 1220. There is hereby established an insurance program to be known as the Federal Medical Malpractice Reinsurance Program which shall be administered by the Commission.

"SCOPE OF PROGRAM

"SEC. 1221. The Commission shall make medical malpractice liability reinsurance available to primary insurers of such liability to the extent that such primary insurers are liable for damages resulting from acts of an insured who holds a valid certificate of compliance in accordance with the requirements of section 1202.

"BASIC AUTHORITY

"SEC. 1222. (a) In carrying out the medical malpractice reinsurance program the Commission shall arrange for—

"(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

"(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

"(b) The Commission shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Commission determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

"NATURE OF COVERAGE

"SEC. 1223. (a) The Commission from time to time shall, after consultation with appropriate representatives of insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to primary medical malpractice insurers participating in the reinsurance program, including—

"(1) the nature and limits of liability which may be covered by such insurance;

"(2) the classification, limitation, and rejection of any risks which may be advisable;

"(3) appropriate minimum and maximum premiums;

"(4) appropriate deductibles; and

"(5) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

"(b) The Commission may enter into such contracts, agreements, or other arrangements upon such terms and conditions as may be agreed upon with primary insurers in order to carry out the purposes of this part.

"PREMIUM RATES

"SEC. 1224. (a) Premium rates established by the Commission shall be—

"(1) uniform with respect to similar classifications of risks;

"(2) sufficient to provide adequate proceeds to pay all claims for probable losses over a reasonable period of years; and

"(3) exclusive of any loading for administrative expenses of the United States under this part.

"(b) Premiums established under subsection (a) shall be paid to the Commission in such manner as the Commission shall prescribe by regulation.

"TREASURY BORROWING AUTHORITY

"SEC. 1225. (a) The Commission is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commission, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) Any funds borrowed by the Commission under this authority shall, from time to time be deposited in the Medical Malpractice Reinsurance Fund established under section 1226.

"MEDICAL MALPRACTICE REINSURANCE FUND

"SEC. 1226. (a) To carry out the reinsurance program authorized by this Act, the Commission is authorized to establish in the Treasury of the United States a Medical Malpractice Reinsurance Fund which shall be available, without fiscal year limitation—

"(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 1225 of this title; and

"(2) to pay such administrative expenses (or portion of such expenses) of carrying out the reinsurance program as the Commission may deem necessary; and

"(3) to pay claims and other expenses and costs of the reinsurance program (including any premium equalization payments and reinsurance claims), as the Commission deems necessary.

"(b) The fund shall be credited with—

"(1) such funds borrowed in accordance with the authority provided in section 1225 of this Act as may from time to time be deposited in the fund;

"(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

"(3) interest which may be earned on investments of the fund pursuant to subsection (c);

"(4) such sums as are required to be paid to the Commission under section 1224; and

"(5) receipts from any other operations under this Act which may be credited to the fund.

"(c) If, after all outstanding obligations have been liquidated, the Commission deter-

mines that the moneys of the fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"PAYMENT OF CLAIMS

"SEC. 1227. The Commission is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage which is covered by medical malpractice reinsurance made available under the provisions of this Act."

TITLE V—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"SEC. 501. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"ESTABLISHMENT OF INSTITUTE

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to the formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions

of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this part.

"(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1304. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"ADMINISTRATION OF GRANTS IN CERTAIN MULTI-GRANT PROJECTS

"SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

"SEC. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of

technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to fous on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development fundings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

"(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section."

TECHNICAL AMENDMENTS TO THE PUBLIC SERVICE ACT

SEC. 502. (a) Section 1 of the Public Health Service Actis amended by striking out "title" I to X" and inserting in lieu thereof "titles I, II, and XIV".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XIV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1401 through 1414, respectively.

(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92-157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

AMENDMENT TO THE NATIONAL LABOR RELATIONS ACT

SEC. 503. (a) Section 2 of the National Labor Relations Act (49 Stat. 449) is amended by adding at the end thereof the following new sentence:

"(14) The term 'prepaid health care plan' means health care furnished by a provider eligible for assistance under parts A, B, or C, of title XI of the Public Health Service Act."

(b) Section 8(a) of such Act is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and adding at the end thereof the following new paragraph:

"(6) to refuse to offer his employees in any collective bargaining agreement containing provisions for furnishing a health care plan to such employees, the option of choosing a prepaid health care plan if the prepaid health care plan (A) is no more costly to the employer than any other plan provided for in such an agreement, and (B) is available in the area in which the employee resides.".

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 193, strike out line 11 through line 25, and on page 194, strike out lines 1 through 5.

Mr. KENNEDY. Mr. President, this is included as an amendment in the final consideration of the health maintenance organization bill. It deals with mandated multiple choice. It was included in the bill as an amendment, in committee executive session, but we have encountered technical problems in carrying through the thrust of that amendment. We have talked to the minority members of the committee, and they understood we would be proposing this amendment.

Therefore I move the consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I ask unanimous consent that my committee staff member on the Health Subcommittee, Mr. Charles Woodruff, be permitted to be present on the floor during the debate on this measure.

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

Mr. KENNEDY. I ask unanimous consent that Mr. Herbert Jasper and Mr. Daniel Murray be accorded the privilege of the floor during consideration of this measure.

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

Mr. LONG. Mr. President, I ask unanimous consent that during the consideration of the pending measures, two members of the staff of the Finance Committee, Mr. Jay Constantine and Dr. James Morgan, be permitted the privilege of the floor.

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

Mr. KENNEDY. Mr. President, I am pleased to be able to call the Health Maintenance Organization and Resource Development Act of 1972 to the attention of the Senate. Throughout almost a year of hearings specifically concerning health maintenance organizations, and through many additional months of hearings concerning the health care crisis, a number of problems related to the existing manner in which health care services are delivered have come to light. The Health Maintenance Organization and Resources Development Act of 1972, as reported by the Senate Committee on Labor and Public Welfare, contains many provisions intended to alleviate some of the problems which have come to the attention of the Committee on Labor and Public Welfare over the past year and a half.

In his 1971 and 1972 messages on health, the President has called for passage of legislation intended to stimulate the development of health maintenance organizations. I am pleased to be able to call S. 3327 before the Senate in response to that request on the part of the President.

Although it is clear that no single piece of legislation can correct the many problems currently existent in the delivery of health care services, I believe it to be the responsibility of the Congress to identify problems which currently exist in the health care industry and to do what it can to alleviate them. I believe that new Federal legislation should represent the most progressive and most considered thinking available at the time of its passage. I believe the Federal Government should act to set a tone which can serve as a benchmark to those, in and out of the health care delivery professions, who are interested in the improvement of our current health care delivery system and in elimination of the many problems currently present in it. For that reason, I believe Federal legislation must be the cutting edge of innovation and change in an industry critical to the well-being of the American people. I believe this bill represents that kind of change.

The Health Maintenance Organization and Resources Development Act of 1972 contains provisions intended to alleviate difficulties the committee has observed

in the organization, availability, accessibility, and efficiency of the delivery of health care services in urban and rural America.

HEALTH MAINTENANCE ORGANIZATIONS

Title I of S. 3327 provides capital assistance for the planning, initial development, and initial operation of health maintenance organizations in urban areas. In addition, grants and loans to offset the costs of construction of ambulatory facilities are included in this bill.

Health maintenance organizations qualifying for support under the terms of this legislation would represent a substantial departure from the existing solo practice fee-for-service mode of the delivery of health services. The health care industry, now overwhelmingly cast in the fee-for-service solo practice model, provides no real alternatives to the consumer. At the present time, only about five million Americans are able to receive services through health maintenance organizations similar to those eligible for assistance under the provisions of title I of S. 3327. The intent of this legislation is to provide a stimulus to the development of more health maintenance organizations, so that the existing situation in which no real alternative to the consumer exists can be modified. As President Nixon stated in his 1972 message on health,

I do not believe that HMOs should or will entirely replace fee-for-service financing. But I do believe that they ought to be everywhere available so that families will have a choice between these methods.

I agree with the president. The provisions of S. 3327 are designed to increase capital support for health maintenance organizations so that we can move away from the 96.4 ratio which currently exists between fee-for-service solo practice and health maintenance organizations.

A health maintenance organization, as defined in title I of the bill pending before us, has many inherent advantages. First, a group practice arrangement, required under the provisions of part A of title I of this bill, will enable physicians to engage in an informal ongoing peer review and consultative process not possible to nearly as great an extent when providers are geographically separated.

In a multispecialty group practice, such as that described in the definitions contained in this title, specialists of many types are available on site for formal and informal consultation concerning the problems of specific patients. The time saved by doing away with the necessity for referring patients to a physician located at some distance from the referring physician will greatly facilitate the provision of high quality health care to patients enrolled in health maintenance organizations. Moreover, a multispecialty group practice approach will facilitate the integration of many of the new and emerging types of health professionals into a truly effective team for the delivery of health care services. Such an approach will go far in increasing the efficiency and effectiveness of the most highly trained and most costly members of the health care team.

Another advantage to a multispecialty group practice approach is that it makes possible the compilation of a single medical record, containing the notes and comments of various types of health professionals who have seen the patient concerning a particular illness, in a single place. A single unit medical record will greatly improve communications among the various health professionals responsible for the care of a patient or group of patients.

It is true that many types of health care organizations exist and are coming into existence in response to growing national concern over the costs and availability of health care services. Many types of health care organizations other than those which would qualify under the definitions in title I of this bill already exist or are being planned. The purpose of the Health Maintenance Organization and Resources Development Act of 1972 is to provide Federal capital support for forms of health care delivery organizations of proven effectiveness.

The steady growth of multispecialty prepaid group practice over the years, despite the inherent expense and difficulties experienced in establishing them, and the persistent discrimination against and harrassment of these organizations, both legal and extralegal, by organized medicine, is testimony to their effectiveness and acceptability.

In the view of the Committee on Labor and Public Welfare, Federal dollars should be used for the capital support of the very best available in the health care field. The Health Maintenance Organization and Resources Development Act of 1972 makes Federal dollars available for those entities which, in the view of the committee, are the best available at the present time.

SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

Support for the capital development of a much broader range of less well proven health care delivery entities is available under part B of title I only if the number of applicants eligible under the more rigorous definitions contained in part A are inadequate to utilize all funds available. In addition, moneys for the purchase of services from a broad variety of health care organizations are provided in other titles of the bill.

For purposes of this legislation, priority in Federal capital subsidy is provided to those organizations of proven effectiveness, and those organizations which are most difficult to form, which have the highest capital requirements, and therefore have the greatest need for outside subsidization. As other types of health care delivery organizations become established, the committee will be conducting an ongoing review of their cost and effectiveness, and will be happy to modify this or any future legislation to support those health care entities which have proven their value and effectiveness.

Capital support for experimentation with new types of health care delivery organizations is already available under numerous Public Health Service Act authorities. The intent of title I of the Health Maintenance Organization and Resources Development Act of 1972 is to initiate the formation of multispecialty prepared group practice forms of health maintenance organizations. It is anticipated that the Secretary of Health, Education, and Welfare will continue to use the multiplicity of authorities already in existence for experimentation with other forms of health care delivery organizations.

HEALTH SERVICE ORGANIZATIONS—RURAL AREAS

Title II of this bill provided support for health service organizations, intended to help relieve the unique problems of health care delivery in nonurban areas. Because of relatively scattered populations in rural areas, in the view of the committee, a health maintenance organization as defined in part A of title I of this bill would be difficult or impossible to establish in a rural area. For that reason, provisions are made to provide capital support for health service organizations in rural areas. Health service organizations differ from health maintenance organizations in that great flexibility is permitted for the structure and range of health services provided. Under the provisions of title II of this bill, individual practice plans would be eligible for capital support in rural areas.

The cost of providing health care services in rural areas exceeds that in urban areas on a per capita basis because of the problems of transportation and communication presented by attempting to provide health care services in rural areas. For that reason, Federal capital subsidy is made available under the provisions of title II for a wide variety of types and forms of health care delivery organizations which would qualify under the definition of a health service organization contained within this legislation. The range of services required in this legislation in order for an entity to qualify for support may be altered in the case of a health service organization by a specific waiver on the part of the Secretary of Health, Education, and Welfare. This provision was included as a result of the committee's recognition that personnel, equipment, and facilities to deliver the full range of required comprehensive health services may not be available in rural areas, and that such a requirement might therefore stifle the development of health service organizations unless the flexibility provided by a waiver was included in the bill. However, a health service organization, in obtaining a waiver, must provide the Secretary with adequate assurances that it will work toward the provision of a full range of comprehensive health services as rapidly as possible.

The range of comprehensive health services, which are required to be provided by a health maintenance organization and, with exception of the waiver provision in title II, by a health service organization, are somewhat narrower than that included in S. 3327 as introduced. Specifically, it is not necessary for dental services for adults or extended care facility services to be provided as part of a basic benefits package. These

expensive services, however, must be offered as a high option benefit to the enrollees of an HMO or HSO.

The services, included in the definition of comprehensive health services and required to be offered by HMO's and HSO's, include only those services which are currently being rendered with success and for a reasonable and competitive premium cost by HMO's at the present time. Some witnesses have testified that services such as mental health services, preventive dental care for children, and prescription drug services, could not be provided by an HMO and HSO without placing it at a competitive disadvantage. Doubt is cast upon the validity of these comments when one realizes that each of these services is being delivered by HMO's at the present time, as is detailed as part of the committee's hearing record on this legislation.

It is the intent of the Committee on Labor and Public Welfare that the Congress take a leadership role in improving the availability and comprehensiveness of services received by enrollees of plans subsidized with Federal funds. To cite the fact that many existing plans do not conform to what the committee believes to be desirable standards at the present time is an inadequate argument against the assumption of a leadership role by the Federal Government in stimulating an improvement in the comprehensiveness of health services which Americans receive. I believe that Federal funds should be used not to reinforce the status quo, but rather to lead the way in improving the existing health care delivery system. The provisions of this bill are designed to accomplish that goal.

AREA HEALTH EDUCATION AND SERVICE CENTERS

Title III of S. 3327 contains authority for the Secretary of Health, Education, and Welfare to fund area health education and service centers. Throughout our hearings, both in Washington and last year in the field, it became evident that the urbanization of medical education in this country has contributed to the sparsity of physicians and other health care personnel in rural areas. While this factor is certainly not the only, or perhaps even the major, cause of the shortage of health care personnel in rural areas, it is a contributory factor in the view of the committee. During the visit of the Health Subcommittee to four European countries last fall, we had an opportunity to observe ways in which some of those countries handled the problem of attracting health care personnel to rural areas. One of the most effective ways in which this was done was through the assignment of health care personnel in training to rural health care educational facilities and health care delivery facilities. Not only did this accomplish the goal of placing health care professionals in rural areas on a temporary basis, but it appeared to be a significant factor in encouraging health care personnel to remain in rural areas after the completion of their training. Programs such as these help to reduce the sense of professional isolation felt by health care professionals in rural areas, while at the same time accomplish the goal of providing high quality health care services to the residents of those areas.

Title III of the Health Maintenance Organization and Resources Development Act of 1972 authorizes grants and loan guarantees to subsidize the cost of establishing area health education and service centers in non-metropolitan areas. University health centers, regional medical programs, and nonprofit provider groups are eligible for these funds. The intent of the committee in establishing these authorizations is to encourage the development of educational facilities and programs in areas where such programs do not now exist. It is the intent of the committee that such programs shall not be exclusively educational in nature, but shall utilize the opportunity provided by their existence to provide health care services to the community in which they are located where this is feasible. The committee realizes, of course, that the funding for such health care services should not be derived from funds intended for education alone, but should be derived where possible from service funds.

Toward that end, an area health education, and service center must have a written agreement with a health service organization, where a health service organization exists in the area served by the area health, education, and service center, and must make its facilities and programs available to all licensed providers who are eligible for assistance under the Public Health Service Act, in the area served by the center. It is hoped that the impact of the area Health Education, and service center upon the quality of health services in the area will in this way be maximized. It is hoped by the committee that area health, education, and service centers will not become ivory towers without impact or interaction upon the surrounding community.

GENERAL PROVISIONS

Title III of the Health Maintenance Organization and Resources Develop- Act of 1972 also contains various general provisions. Among them is a provision preempting State laws which restrict group practice, the corporate practice of medicine, or other conditions which would impede and inhibit the growth of health maintenance organizations, health service organizations, and supplementary health maintenance organizations. The history of innovation in the delivery of health care has been one of opposition, harassment, and discrimination on the part of organized medicine toward innovators. Some of this opposition has become manifest in State law. As of May 1971, 22 States continued to have law prohibiting prepaid group practice. Section 1143 of the Health Maintenance Organization and Resources Development Act of 1972 provides for Federal preemption of such laws. The committee recognizes the fact that some of these laws were originally intended as controls over the quality of the practice of medicine. Therefore, in order for any provider of health care services to qualify for the preemption provisions of this legislation, that provider must have the approval of the Commission on Quality Health Care Assurance, established in title IV of this bill.

This requirement was written into this legislation by the committee in order to assure consumers of health care services that those services will be of high quality.

Another important preemption provided in the Health Maintenance Organization and Resources Development Act of 1972 is that against advertising for the purpose of recruiting enrollees. The committee believes that health maintenance organizations, health service organizations, and supplemental health maintenance organizations must be allowed to attempt to recruit enrollees to at least as great an extent as commercial health insurance plans. To prohibit them from doing so, as is the case in many States, would seriously impair their ability to grow. The committee believes that private insurance plans which advertise for the recruitment of subscribers, and then reimburse providers on a fee-for-service basis, are in effect acting as the agents of those providers electing to practice in the fee-for-service mode. It sees no reason why prepaid health care organizations, as long as adequate quality assurances can be provided, should not be allowed to compete on an equal basis.

The preemption of State law regarding the corporate or group practice of medicine is not without precedent. Title IV of Public Law 91–515 established authority for group practice and authorized eligible carriers under the Federal Employees Health Benefit Act to underwrite prepaid group practice without regard to certain State restrictions. In a sense, this provision of the Health Maintenance Organization and Resources Development Act of 1972 is simply a broadening of that general principle.

Another provision contained in title III of this bill authorizes capitation grants to enable health maintenance organizations, supplemental health maintenance organizations, and health service organizations to serve medically indigent and high-risk individuals in instances where all other source of financing for such services has been utilized. Throughout the past year and a half, the Health Subcommittee has heard of many instances where adequate health care could not be obtained because of inadequate financial resources despite existing insurance mechanisms.

For that reason, the committee has authorized the appropriation of funds, falling into two categories: The first is for the subsidization of the costs of premiums in a health maintenance organization, health service organization, or supplementary health maintenance organization, when all other sources of funding, both public and private, have been exhausted. The committee has provided this form of subsidy for two reasons. First of all, it wishes to underscore its view that in utilizing public funds for the developmental assistance of health maintenance organizations, health service organizations, and supplemental health maintenance organizations, the

committee believes it has an obligation to assist those incapable of meeting the costs of services in such organizations.

Second, the committee wishes to encourage the enrollment of individuals in organized systems of health care delivery. The committee believes that such organized systems of health care delivery will be capable of giving higher quality health care at much lower costs than is true in a relatively disorganized system.

The second form of subsidy available under this provision is to enable the health maintenance organization, health service organization, or supplemental health maintenance organization to maintain the open enrollment policy required by the provisions of this legislation.

Two practices, prevalent in the private insurance industry, make it difficult for individuals with a history of chronic or recurrent illness, or who in the opinion of the insurer stand a chance of requiring unusually high numbers of health care services, to obtain adequate insurance coverage.

These two practices are related. The first is called skimming. Skimming is the practice whereby an insurance company may refuse to provide such an individual with insurance coverage effectively skimming only the best risks for insurance coverage, enabling the company to offer lower rates. The second practice is called experience rating.

Experience rating is the practice wherein an individual with a high "risk" of utilizing health care services is charged a higher premium rate than are individuals or a group of individuals with a low risk of utilizing services. In this way, the insurance company attempts to pay for the cost of providing a high number of services by levying an additional premium on the user of high number of services. Most often, a high utilizer of services is an individual with a chronic or recurrent illness, who is generally less well able to pay for his services than others.

The committee believes both of these practices to be undesirable, and to be antithetic to the purpose and principles of insurance coverage and risk sharing. For that reason, this legislation requires that any organization qualifying for assistance maintain a community rating policy; that is, must charge the same premium to all of its enrollees, and maintain open enrollment. Open enrollment means that the organization must accept enrollees in the order in which they apply up to its capacity, without regard to the applicant's prior health care history.

The committee realizes that both of these requirements place organizations qualifying for assistance under this legislation at a competitive disadvantage with the commercial industry which need not adhere to these requirements. For that reason, the Secretary has been authorized to subsidize organizations qualifying for assistance under this legislation in order to enable them to maintain the required open enrollment policy. If an eligible applicant under the terms and conditions of this legislation can demonstrate to the Secretary that a continuation of an open enrollment policy will result in a premium increase, the Secretary is authorized to make a grant to that organization equal in amount to the amount required to prevent such a general premium increase.

COMMISSION ON QUALITY HEALTH CARE ASSURANCE

Mr. President, problems of the determination of quality in health care services far transcend lack of current knowledge or lack of competence on the part of a particular provider. In my opinion, the absence of agreed upon norms and standards for quality health care on a national scale have greatly contributed to the difficulties currently being experienced by the administrators of public health care programs in determining just what constitutes appropriate health care services in a given situation. I fully appreciate the unique and important position an individual health care provider must play in determining the appropriateness of services for a particular patient in a particular instance. However, the importance of the role of that provider cannot justify the continued absence of generalizable standards relating to the inputs, process, or utilization characteristics of health care services, nor to the virtual absence of a capability to relate the process of medical care to the results of that process on the health of the patient.

Licensure standards vary from State to State, despite the existence of the National Board of Medical Examiners, a private certification board. Despite this fact, reciprocity exists in licensure between most States. The impact of this situation is that despite varying requirements for licensure from State to State in the health professions, many licensed health providers can obtain licenses in other States simply by reciprocity.

No reason exists for the continuation of this situation in the health professions. Unlike law or certain other professions, there is no justification for regional variation in the practice of medicine. Although the incidence of disease may vary from place to place and the population of patients may vary from place to place, medicine is a universal art and science.

I believe providers of health care services throughout the country would welcome the opportunity to participate in an effort intended to increase the body of knowledge concerning the long range impact of their practices and the opportunity to compare their modes of practice with those of providers in other parts of this country.

For that reason, this legislation provides for the establishment of a Commission on Quality Health Care Assurance.

The intent of the committee in authorizing the establishing of such a Commission is to promote the assurance of quality health care practices, invest in the accumulation of additional knowledge about the practices of health care professions in this country and the results of those practices, and to provide assurances that consumers have an opportunity to become involved in many of the major policy aspects of the provision of health care services which they purchase and which they receive.

The Commission as authorized in title IV of this bill would consist of 11 members and would be an Independent Agency of the Federal Government. Of those 11 members, four at any given time must be consumers unrelated to the health care industry. The remaining seven must be professionals drawn from health care disciplines. The committee intends that the composition of the professional membership of the Commission shall be representative of various aspects of the health care industry.

The Commission is authorized to promulgate standards relating to the qualifications and characteristics of personnel and facilities. This authority is, in the committee's view, closely related to the preemption of State law authorized in title III. It is intended that the Commission, in promulgating such input standards, shall attend to the functions of State laws preempted under the provision of this legislation.

The committee does not intend that the Commission shall engage in the determination of how the health professions should be practiced. It is not the intent of the committee that the Commission shall engage in capricious or arbitrary standard setting concerning health care practices. However, the committee believes it to be essential that the Commission be allowed to assure quality, and to effectively monitor health care practices in such a way as to enable it to eventually determine and formulate criteria for what constitutes good health care practices, and to identify reasons for deviation from good health care practices on the part of providers and consumers alike.

The Commission is authorized to ascertain that a provider, in order to become eligible for certification by the Commission have an approved quality health care assurance system. No attempt is made to describe the nature of that system in this legislation, with the exception of the committee's desire that consideration be given to the feasibility of including varying types of health care professionals and consumes in the composition of the quality health care assurance system. It is intended by the committee that the quality health care assurance system be locally determined and operated, in compliance with general criteria established by the Commission. It is anticipated by the committee that such quality health care assurance systems will assume a variety of forms. It is the committee's wish, however, that such systems be able to comply with the uniform reporting requirements, in order to enable the Commission to gather and compile data which will make the establishment of norms for health care practices possible.

The Commission is further directed to utilize the information gathered from the quality health care assurance systems as well as the medical malpractice arbitration systems authorized later in the title, to compile information relating to health care practices throughout the country. It is then directed to establish, after adequate hearings, statistical norms de-

scribing those practices, and is authorized to investigate instances in which significant deviation from those norms is observed.

In this way, it is the hope of the committee that a body of knowledge can be established which will lend itself to the formation of standards within the health care field.

The ultimate goal of the Commission, although requiring many years in the accomplishment, will be to relate the processes of medical care to the results of those processes.

The Commission is further authorized to enforce the rather rigorous consumer participation and consumer disclosure requirements of this legislation. It is the view of the committee that the consumer, who is the purchaser and recipient of the health care services, should have the greatest possible voice in how and under what circumstances those services are to be delivered. It is hoped by the committee that the Commission will assist in the accomplishment of this goal.

The Commission is authorized to issue certification to health care providers meeting its requirements regarding standards, the operation of approved quality health care assurance systems, and consumer disclosure. Certification by the Commission will be prerequisite to eligibility for any assistance under this legislation or any future assistance under the provisions of the Public Health Service Act.

In addition, any provider, whether an applicant for Federal funds or not, may voluntarily seek Commission certification. In return, any certified provider will receive a quality health care initiative award, equal in amount to 2 percent of his annual gross receipts, designed to offset the costs of compliance with the Commission requirements, such as recordkeeping, bookkeeping, and reporting. No provider shall be eligible for the preemption of State law, the medical malpractice reinsurance protection or federally supervised medical malpractice arbitration procedures unless he is a certified provider of health care under the provisions of this legislation.

In this way, it is intended to stimulate the participation of all health care providers in the quality assurance program on a voluntary basis. It is only through participation of a large proportion of all health care providers that an accurate assessment can be made of the quality of health care in this country at the present time. Adequate evidence already exists that the quality of health care services in this country is, at best, spotty.

This legislation additionally provides for State standards for quality health care assurance. If a State can promulgate standards at least equal to those of the Commission on Quality Health Care Assurance and acceptable to the Commission, and can offset the costs of enforcing such standards, it may do so in lieu of direct Federal administration of the quality assurance program.

MEDICAL MALPRACTICE

Mr. President, this bill also provides for the arbitration of medical malpractice disputes, the limitation of contingency fees in such arbitration proceedings, and the establishment of a Federal medical malpractice reinsurance program. These provisions are most important reforms to assure stability and equity in this vital area for both the provider of care and the patient.

Medical malpractice litigation has become an onerous and protracted means to resolve medical malpractice disputes. The costs are escalating with less and less of the medical insurance premium dollar going to compensate the injured party. The delays in resolving such disputes average up to 4⅓ years from initial filing of a suit. Litigation has failed to provide an efficient means to achieve a fair result for all concerned.

Arbitration is an efficient and effective method to resolve such disputes. High costs and long time delays are avoided. The procedure may be held in any site convenient to all parties. There is no need for extensive legal procedures since rules and procedures governing courtroom litigation are inapplicable. Arbitration has proved successful in several different programs including the Ross-Loos medical group for the past 40 years, and I believe will be most effective in the HMO and HSO setting.

Litigation of medical malpractice claims has not been an effective method to monitor quality health care standards in the past. Arbitration as conceived in this bill would be a most important monitor of health care practice. Arbitration is under the aegis of the commission on quality health care assurance and is closely related to the functions of the commission. The commission will use the findings in settlement and arbitration proceedings to evaluate health care and provide data for establishing criteria and standards for quality health care. Because arbitration findings are to be used for developing such standards which ultimately will be incorporated in the criteria for certification, it is most important that providers be certified in order to participate in arbitration. With certification, arbitration infomation will be an important feedback mechanism to the providers.

Arbitration will not only provide an expeditious method for the resolution of medical malpractice disputes, but will also be an important means to assess and improve the quality of health care. In such a context the provider of care should be certified by the Commission so that arbitration will be an effective mechanism for insuring better medical care.

Mr. President, the Committee on Labor and Public Welfare accepted an amendment to limit contingency fees of attorneys in those cases of medical malpractice disputes which go to settlement or arbitration within a Health Maintenance Organization.

This provision, offered by Senator GAYLORD NELSON, merits strong support, for it is crucial to counter the escalating costs of medical malpractice disputes and their settlement. I believe limitation of contingency fees is most appropriate in the arbitration setting since the need for extensive pretrial preparation for litigation in the courtroom is avoided.

The Commission on Quality Health Care Assurance shall be responsible for monitoring all findings of the arbitration of settlement proceeding and the corresponding contingent fee arrangements of the attorneys and their clients.

An excellent opportunity is provided the Commission to evaluate the entire process and establish important criteria and standards in this area. Because the Commission shall have such an important role under this provision, it is most important hat arbitration and the limitation of contingency fees be available only to those providers of care who have obtained a certificate of compliance from the Commission. These provisions are closely related to issues of quality health care and programs to be provided only to those who have obtained the certificate of compliance.

Mr. President, as a complement to the arbitration and contingent fee limitations provisions in this bill and to assure a measure of stability in medical malpractice insurance, I strongly support the provision for a Federal medical malpractice reinsurance program.

This program responds to the serious need for stability in medical malpractice insurance which has lacked a strong base of backup support in the reinsurance area. Lack of such support has been a significant factor in cancellation of medical malpractice insurance policies for entire States and localities as well as to individual practitioners. By establishing a Federal reinsurance program of support and controls, the result should be stability and reduced costs for the provider of care.

To obtain the benefits of this reinsurance program, the provider of care must obtain a certificate of compliance from the Commission which is responsible for administering this program. I strongly support this precedent condition of certification, for I do not believe this program should be available to those providers who may not be meeting the quality health care standards promulgated by the Commission. I believe it is most reasonable that all providers, from the individual practitioner to the HMO or HSO, be eligible for such reinsurance protection by simply obtaining certification.

Mr. President, arbitration, the limitation of contingency fees and the reinsurance program as provided in this bill merit strong support to implement reform in a vital health care. Under the supervision of the Commission on Quality Health Care Assurance, these measures would not only significantly improve an area of critical concern to providers of care and patients, but also establish the wherewithal to monitor health care standards. Certification as a condition precedent for the provider of care to qualify for such programs is eminently fair and reasonable. I believe providers of care will welcome the evaluation provided by the Commission as vital assistance in developing and maintaining high standards of health care, which is a goal we all share.

Mr. President, title V of S. 3327 amends the Public Health Service Act to establish a National Institute of Health Care

Delivery as a separate agency within the Department of Health, Education, and Welfare.

The Institute's mission will be to carry out an accelerated multidisciplinary R. & D. effort to improve the organization and delivery of health care in the Nation.

Title V also authorizes up to eight research centers, two national special emphasis centers, a health care technology center, and a health care management center.

The total amount of money authorized by title V of the bill both for the Institute and the centers is $155 million for fiscal year 1973, $185 million for fiscal year 1974, and $240 million for fiscal year 1975. This is a total authorization of $580 million.

A 21-member national advisory council on health care delivery is also authorized by the committee's bill for the purpose of advising the Institute on the development, priorities, and execution of the program.

Since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of major medical breakthroughs and has made the Nation preeminent in the world in respect to biomedical research.

On the other hand, comparatively small investments have been made in research and development efforts to improve the organization and delivery of health care. Appropriations for fiscal year 1972 contrast the Nation's investment in biomedical research as compared to the health care delivery research. The fiscal year 1972 budget for the NIH, the Federal Government's principal biomedical research organization, was $2.2 billion, while the budget for the National Center for Health Services Research and Development was only $62 million. This great disparity may help to account for this nation's preeminence in biomedical research and our lack of understanding concerning the deficiencies in the present delivery system. The gap between what we know and what we practice is one which grows wider each day. The American people marvel at the miracle-like heart transplants which are largely the result of this Nation's enormous investment in biomedical research. Regrettably, these kinds of achievements are not matched in respect to the organization and delivery of health care. For millions of Americans health care is either not available at all, is inaccessible, and/or is not affordable.

To develop the means and methods to deliver the results of medical research and the know-how to our citizens wherever they live at a price they can afford is the principal health task facing this soon-to-be-established National Institute on Health Care Delivery.

Mr. President, I wish to emphasize in very strong terms that the mandate given to the National Institute of Health Care Delivery will be very difficult to carry out and that it is, therefore, essential that the activities of the Institute be undertaken in a prudent and orderly manner. The dual goals of the Institute are to enhance the breadth and effectiveness of health services research and development in the Nation through an expansion of available funds and through the transfer of the National Center for Health Services Research and Development to the Institute and to create a capability to carry out health policy research, development, and training through the staff of the Institute.

While this innovative approach to policy research and formulation is, in my view, urgently needed and deserving of support, there are serious constraints which will plague this effort. These constraints are: First, there is in the Nation essentially no tradition of health policy research and development and no suitable model upon which to base the establishment of a complex large and multifaceted R. & D. effort. Second, there is in the Nation essentially no body of experienced managers to initially head up an effort of the magnitude the committee's bill ultimately envisions. Third, there is in the Nation a critical shortage of qualified professional personnel in respect to the broad-based functions of the Institute and, therefore, the recruitment of adequate numbers of such persons will be arduous.

Given these formidable constraints, it is clear that it is not possible to draw a complete analogy between this proposed Institute and the ongoing National Institutes of Health. When the NIH was established in 1937, there was a large pool of well-trained biomedical researchers who were then constrained principally by the lack of money and resources with which to carry out high-level biomedical research. At that time there was also a large body of potential investigators eager for training if resources could be made available. Such is not the case in health policy research today, in which there is only a small body of practitioners from economics, law, medicine, social sciences, and so forth, which has specialized in the conduct of the kinds of efforts which are intended to be carried out by the Institute.

It believe that, if the efforts of the National Institute on Health Care Delivery are to be successful, priorities must be set which will take cognizance of these constraints. For example, the small number of qualified policy analysts leads me to the conclusion that only a few centers of excellence are possible at the outset of the Institute's activities. I also urge that the Institute devote a major share of its effort to the creation of a major intramural health care research effort, analogous to the Clinical Center of the NIH.

I also urge the establishment within the Institute of a specific unit charged with supporting and developing training programs and training centers for health policy and health care research workers. The expansion of trained manpower in this area is absolutely essential to the viability of the Institute's long-term program.

I further urge that the Institute and the Department of Health, Education, and Welfare give serious thought to the relationships between the Institute's program and the Lister Hill Center for Biomedical Communications which is located in the Department of the National Library of Medicine.

In summary, I want to stress that the initial years of operation of the Institute will be critical in respect to long-term success or failure of it and that the decisions which are taken in respect to these initial years' activities should be made with the greatest possible care, commonsense, and vision.

Finally, Mr. President, I want to just briefly mention the relationship between the National Institute on Health Care Delivery and the Commission on Quality Health Care Assurance, established by title IV of the committee's bill. Without question, the agency of the Federal Government with which the Commission will have its greatest concern and interaction will be the Department of Health, Education, and Welfare. The need for close and cooperative working relationships between the Commission and HEW is made greater by the provisions of title V of the committee's bill which authorize the creation of the National Institute on Health Care Delivery. Accordingly, the committee has mandated enumerous sections contained within title V of the bill that the activities of the National Institute of Health Care Delivery be carried out in coordination and in cooperation with the Commission on Quality Health Care Assurance. In this respect, the committee considers the Commission and the Institute to be essential to the effective carrying out of the mandate of S. 3327 and further considers that the relationship between the Commission and the Institute must be compatible. While some of the functions of the Commission and the Institute are intimately related to one another, I wish to emphasize that in no way can or should either the Commission or the Institute be viewed as duplicative of the other. Both are essential.

Mr. President, the pending measure came out of the Committee on Labor and Public Welfare with a unanimous recommendation. There are different provisions which have been of concern to different members of the committee. It is an extremely expansive, far-reaching, and significant piece of legislation. When enacted, it will provide the basis for establishing health facilities as well as services to the American people in both urban and rural areas. It will result in higher quality health care for all our people.

This legislation and the health manpower legislation represent two of the most important efforts made by Congress in addressing itself to the health care crisis.

When passed and implemented, the third aspect of the health care crisis will be addressed—the financing mechanism. It will be one thing if we have an adequate supply of well-trained health manpower, and if we are able to build various health facilities in urban and rural America; yet if people are not able to use those services or those facilities because of some kind of financial hardship, we will still have failed, I believe, to meet our responsibility to assure that

in this great country of ours, quality health care will be available to the American people at a price they can afford to pay. We have tried to address ourselves in a modest way to that problem.

The intent of this bill is to provide quality medical care in urban and rural areas; it provides financial assistance to those communities that need it, and gives them assistance in developing their HMO's and SHO's.

What we have tried to do here is to establish for the first time a commission on quality control. We have brought the neighborhood resident, hopefully, into the health delivery system. We have established, as well, a system by which the facilities can be created in all parts of the country in which high quality care can be delivered. I believe that this bill represents the combined, best judgments of Republicans as well as Democrats in the health area. It is an important step forward in trying to meet one of the very important needs of the American people—decent health care.

As this time, I am prepared to consider any amendments.

Mr. JAVITS. Mr. President, I have joined the Senator from Massachusetts (Mr. KENNEDY) now for some years in trying to bring us to the present stage with respect to health care for the American people. I did that, first, because of a deep concern for the welfare of my own people in New York State—which comprises almost 10 percent of the population of this country, as well as for the entire United States. Second, because, having been for some years in the coexistence, competition struggle, cold war, with the Communists since I first came to Congress immediately after World War II, I have have been so impressed with the fact that when we boil it all down, the only thing the Russians have really offered their people is universal health care. Other than that, there is not a thing I can discover in which we not only outrank them but also outclass them; yet, it has taken us so long, and is still taking us a long time, to get to the point where we can really effectively challenge them.

We challenged their quality. There is no question about that. But we do not, as yet, effectively have universality. That is the fundamental purpose.

Of course, the second step in what the Senator from Massachusetts has properly described as a three-phase effort, the first phase is to supply the personnel. We have bills on that. And the health provision. I had a health bill on the health provisions. Then there is nursing.

Now the effort is to supply the means through which health care may be delivered the most efficiently, especially as we have learned that health maintenance is even more important than health care in terms of the economy and effectiveness for the people.

Our struggle is to keep the people well, as well as to cure them when they are ill. Really, that is the new concept of medicine today, to keep the people well. Thus, I am deeply gratified that we are finally here.

I wish to emphasize also with this particular measure, that it is the second leg of a three-legged stool on which I hope the American people will ultimately be able to sit comfortably with respect to health care. But I wish to emphasize one other point, which the Senator from Massachusetts mentioned but which, uniquely I suppose, would lie in my mouth to say, and that is the bipartisan nature of the sponsorship of this measure.

I joined the distinguished Senator from Massachusetts in developing it. It was part of my national health scheme, as it is part of his. Here we found common ground. It is interesting that in the committee, on the whole, there was no dissent with the fundamental purpose, although the distinguished Senator from Colorado (Mr. DOMINICK) has some views about a certain kind of HMO, a supplemental HMO—which we will deal with with respect to his amendment.

What I wish to emphasize is that we are still leaving entirely open all options on financing national health care, or on even the university of its provisions insofar as the Government has responsibility to see that it is available to all without penalty because the individual is economically unable to pay for quality health care. All our options remain open, after this bill, as they did before. Let us remember that the options range all the way from the American Medical Association's own plan, which we can consider the right wing, as it were, of this whole effort, the administration's own plan, the trade union's plan, and my own plan, which I suppose could be described as the so-called hospitals plan, and then various health organizations like Blue Cross, Blue Shield, and so forth.

But everyone's options are open—including no plan. There may be Members here who would go for no plan—not the administration's, not the American Medical Association's. OK. The options are open. We can start right here and we will have rendered a great benefit to the American people in opening up channels by which they may get effective medical care. This is critically important, because it underlines the fact that we have proceeded step by step, up to and including this point, which is still essentially not a controversial point.

Certainly, everyone can agree that we need enough doctors and nurses, and enough other medical help and personnel to provide the most efficient means by which to render the services necessary.

The next question is, who will render it, to whom, and what will it cost? That is a stage we have not yet reached. I have appreciated very much Senator KENNEDY's first amendment to deal with this matter in the collective bargaining field which appears at the very end of the bill in section 503.

Again the Senator from Massachusetts is faithful to our concept of keeping this clean with respect to its fundamental purpose upon which there could be such broad agreement. I congratulate him on that. We will fight about the other part in due course. However, at least we will be standing on the second, of the two plateaus which could not have been erected without his willingness to subordinate his strong feelings on a national health act and saying, "OK. We are going one step further beyond the professions in the methodology of the act. Let us at least cosponsor that."

I hope very much that Members of the Senate will understand the frame of reference in which this fits and will support at least accomplishing the second of the two monumental steps in order to do it. It might be the same with regard to the ultimate goal. But it does not get us to that goal.

Upon that, I think the facts and the details are clear. My own relationship to this matter dates back to the introduction of my own Local Comprehensive Health Service Systems Act of 1971, followed by the administration's Health Maintenance Assistance Act of 1971, which I introduced. And this is a logical sequel to all of this. It shows that we have found that the health maintenance organization based on a group concept, is the best.

At this time, I would like to read—and I shall not detain the Senate long, at least in this preliminary debate—the words of the Secretary of HEW, Secretary Richardson on that score when he testified, for example, against the fact that many States impose legal restrictions on HMO development and said:

> Many States impose legal restrictions on HMO development which will have to be overcome, for example, in the areas of licensure of health professionals and sponsorship of HMO's. Twenty-one States have even more restrictive laws, in some instances, requiring HMO's to operate under rules applicable to Blue Shield plans or insurance companies. Since HMO's operate in a different fashion from either of these, such laws make it difficult for HMO's to organize.

What this bill seeks to achieve is not only uniformity, but efficiency. In this way it circumvents laws that are inconsistent with it within the States and also frees States which have no laws. This would, therefore, enable HMO's to operate. In other words, it settles all economical questions where State medical associations might attempt through their power to discipline doctors so as to inhibit the organization of HMO's. It places tremendous emphasis upon the concept of quality both in the case of organized HMO's and in the technique by which an HMO is established.

One other thing is critically important. No one has to use an HMO. He can use all of the private doctors he wants. We believe, and we have proved it, that this is the most effective and economical way in which to render service. And it is a superior service because it is dedicated not only to curing, but also to helping people prevent illness.

Therefore, I strongly commend it. It takes advantage of the fee for service on a per capita basis where a great many people are not covered. However, the people want to be covered. And this enables them to be covered in the most efficient possible way.

These are, of course, nonprofit organizations except for the fact that doctors and everyone else get salaries, as they would in any other organization. This is the most advanced concept there is.

While we encourage it, we do not make anyone use it. We are not at the advanced stage as yet. We will get to that point. However, we are not there yet.

The Senator from Colorado (Mr. DOMINICK) felt strongly that the so-called medical foundation, HMO, should have a right to be organized and to function within the context of an HMO concept under the bill. A medical foundation HMO has one difference from the classic HMO which the Senator from Massachusetts and I have done our utmost to perfect. That difference is that the doctor gets a fee for services. He does not have to, but he may operate on a fee for service basis. That is the basic difference under the classic HMO concept. A per capita fee is paid by a person, an organization, a union, or someone else, and the doctors and all other personnel get salaries, and they take the good with the bad, the hard with the easy, and the long with the short hours.

We believe that this is the most efficient way for dealing with the matter. The medical foundation, the HMO, also has to live. We recognize that right in the bill. And the bill contains a title in part B on page 106 which enables us to extend the same benefits to them that we are extending to HMO's generally to those supplemental HMO's with the understanding that, as we pay a per capita fee and salary concept in a classic HMO, we felt that we should not have the so-called medical foundation HMO unless it was necessary to make available all of the potentials of such an organization in a given area where there was no HMO organized according to the classic pattern.

So we provide that the supplemental HMO is permitted where there are insufficient qualified, eligible applicants for grants as HMO's, as the classic HMO.

Mr. President, I worked that comprise out myself with the full approval of the Senator from Massachusetts. I believe it to be a fair one. I hope very much that we will be able to accommodate that compromise in the disposition which we make of the amendment of the Senator from Colorado.

I say that, Mr. President, not because I believe that these supplemental in HMO's are inferior in any way, but because they do have a function as an HMO would, for example, except that they do not represent, in our judgment, the most economical and the most likely to give the types of care, including preventive care, one-stop care, which we look forward to in presenting this bill to the Senate on the classic HMO concept.

Mr. President, finally, in conclusion, we focus upon the need for some national health scheme. There are some 76 such bills pending before Congress. We must recognize, all of us, however we might feel about this bill and the concept, that we need to augment and improve the capacity for health care to meet the increasing demands which will result ultimately from whatever financing of the measures we adopt. If we adopt none, we still face the need for more health care. Therefore, the pending bill seeks to provide ways in which to improve access to health care and to control the costs of health care.

And I want to emphasize how the costs have been running away according to the Consumer Price Index, they have doubled in cost and this has compelled us to look to the question of costs and seek to maintain the quality of that care for the American people.

So this bill proposes materially to improve a system for delivering health care in this Nation and to provide solutions for those difficult problems of cost and quality by authorizing support for the concept of prepaid health care delivery systems which are capable and more economical and will provide a full range of services.

I hope very much that the Senate will give the only tribute which I know the Senator from Massachusetts and I desire for our monumental labors which have gone into what I consider a magnificent, strong, and very constructive bill by giving its approval.

Mr. BEALL. Mr. President, I rise first to indicate my support for 53327, a bill to encourage the development of Health Maintenance Organizations in the Nation. This is landmark. I also want to congratulate the Senator from Massachusetts, the Chairman of the Subcommittee on Health, and the ranking Republican member, the Senator from New York (Mr. JAVITS), who is the ranking member of the full Committee on Labor and Public Welfare, and Senator SCHWEIKER, the ranking minority member of the health subcommittee, and Senator DOMINICK for the leadership that they have shown in the entire area of improving opportunities for health care delivery in this country. This is the result of many years of work that began long before I came to the Senate. I am happy to have had the opportunity to participate in these measures for improving access to the health system.

The Senator from Massachusetts and the Senator from New York both very eloquently described the legislation that is under consideration today and they have gone into detail on Health Maintenance Organizations sections.

I will focus my remarks on title V of the legislation, which authorizes a new National Institute of Health Care Delivery as a separate agency within the Department of Health, Education, and Welfare.

The Institute's mission will be to conduct a multidisciplinary, research and development effort to improve the delivery and organization of health care in the country. In addition, there is authorized up to eight regional centers and two special emphasis centers, a health care technology center, and a health care management center. The total authorized funding for the Institute, the regional centers, and the special emphasis centers will be $155 million for the first year, $185 million for the second year, and $240 million for the third year for a total of $580 million over a 3-year period.

BACKGROUND AND NEED

Mr. President, I first made this proposal for a National Institute of Health Care Delivery in a June 15, 1971 speech in Gaithersburg, Md. Thereafter, I circulated reprints of the speech to various medical and health organizations and to many experts in the field around the country. The interest in the proposal was most encouraging. I was particularly pleased with the favorable editorial comment by the respected "Science Journal." The comments, suggestions, and criticisms that I received were most helpful in molding the proposal into legislative form. I want to extend a special thanks to Johns Hopkins and Maryland University. Their faculties' interest and observations contributed significantly to the final bill. I also examined the administrative and organizational structure of the various Federal research and development efforts, as well as some private organizations.

Finally, on March 13 of this year I introduced S. 3329, a bill to establish a National Institute of Health Care Delivery. S. 3329 was cosponsored by Senators DOMINICK, HOLLINGS, PASTORE, and STEVENS. I am grateful for their support and assistance on this legislation.

Mr. President, since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of medical breakthroughs. This effort has made the United States preeminent worldwide in biomedical research.

During the same period, comparatively small investments have been made in research and development to deliver the fruits of biomedical research to the American citizens. During the last fiscal year, for example, the National Institutes of Health's budget was $2.2 billion, while the budget for the National Center for Health Services Research and Development was only $62 million. I want to make it clear that the citing of this contrast does not suggest or imply that we are spending too much for biomedical research. For the record of this Senator, the Congress, and the administration clearly reveals strong support for an accelerated attack against the No. 1 and 2 diseases of our citizens, heart and cancer. Biomedical research and health-care delivery are inextricable pursuits.

The disparity in spending between biomedical research and health care research and development may help explain the preeminence of the United States in biomedical research and the deficiencies in our present health system, as well as the growing gap between what medical knows and what is delivered to the patient.

I have talked to many Marylanders and citizens of this country. Although our citizens marvel and applaud the achievements of medical science, including the miracle-like transplants that are taking place, their first plea to the health community is not for more dramatic breakthroughs, although these are wanted, but for the health system to make available, accessible, and affordable the achievements, methods, and procedures developed by medical science over the last quarter to one-half century. The public is aware of the gap between the capabilities of medical sci-

ence and what is delivered to the patient, and this is a source of much discontent.

Developing the means and methods to deliver the results of medical research to our citizens wherever they live and at a price they can afford will not be an easy task. It will be the difficult mission and challenge given the new Institute.

PRESENT EFFORTS INADEQUATE

Presently, the Nation's effort in this area is at the National Center for Health Services Research and Development. This Center presently is buried in the bureaucracy of the Department of Health, Education, and Welfare, being one of many units of the Health Services and Mental Health Administration.

This center would be moved to the new Institute. At its present position in the Department, the Center for Health Services Research and Development lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many Government research and development organizations. It is not funded adequately. Its research function has been shortchanged and underemphasized. It does not even have a legislative mandate. I doubt whether many in Congress, other than those with a special interest in health or serving on the health or appropriations committees, even know the center exists.

Although some interesting efforts have been undertaken at the center and elsewhere, one must admit that the efforts to date have contributed disappointingly little either to the solving of the problems of the present delivery system or to the producing of alternative systems. The fact is that important questions that had been raised about health care delivery 10 years ago, are still being asked today.

I do not believe that we can wait another decade for these answers. The committee shares this belief not only because of the urgency of our present problems, but also because we will be making fundamental decisions with respect to the directions of health care delivery in the near future and we need all the information and wisdom we can gather so that the decisions made will be the best possible. The new National Institute of Health Care Delivery, with a clear mandate from Congress, top management, the necessary organizational structure and administrative provisions, and with adequate resources, will help us to find the answers to the many health care delivery questions and help make health care delivery in the United States as important as medical research.

LOCATION AND APPROACH

The new National Institute of Health Care Delivery will be a separate agency within the Department of Health, Education, and Welfare. Its organization position within the Department will be comparable to the National Institutes of Health. This position will be needed because of the importance and urgency of health care delivery problems. It is necessary if the Institute is going to attract top management and the talented men and women required for this undertaking. This elevated structure will give health care delivery research and development greater visibility and raise its stature among the public, the health community and within the Government. The Institute's new structure will enable it to have a strong voice for a needed increased investment and interest in research and development in health care delivery.

The Institute will provide a creative environment wherein multidisciplinary teams from such academic disciplines as health, medicine, engineering, science, accounting, statistics, social sciences, architecture, law, education, and the management sciences can interact and focus their attention and generate action oriented research on the critical and complex problems of health care delivery.

The imporatnce of the multidisciplinary approach was underscored in a recent speech by Prof. William B. Schwartz of the Tufts University School of Medicine when he said:

> There is a clear implication that the problems will require a multidisciplinary approach—we are not simply dealing with economic problems to be formulated and analyzed by economists or manpower problems to be dealt with by physicians. The problem of delivery or primary medical care, for example, obviously has an enormous number of facets. It involves not simply a question of more and larger medical schools training more physicians but a range of issues including the maldistribution of physicians, inducements to rural and ghetto practice, restriction of physician entry into specialities that are overpopulated, the use of allied medical personnel to replace physicians in the delivery of primary care, the introduction of computer-aided diagnosis and management as a means of upgrading the nonphysician's performance and increasing his range of responsibilities, the use of television as a link between doctors and patients, and the introduction of new transportation strategies as a means of making high quality care available to areas of low population density.
>
> In weighing these approaches, consideration must also be given to patient acceptance of new personnel and new technology, to the reliability of computer-aided diagnosis and management, to the response of the physician to incursions of new health personnel and new technology into his domain, to legal problems related to licensure and malpractice, to the time lags involved in the introduction of new strategy, and to the trade-off between quality and quantity that is implicit in changing the traditional patterns of health care. Only in this way can we allocate resources appropriately and can a desirable mix of manpower and technology be brought to bear".

There is another important concept in research and development; namely, "critical mass". This term originated in nuclear physics where "critical mass" is defined as the amount of radioactive material needed to produce a self-sustaining nuclear reaction. In research and development, "critical mass" refers to the minimum size and composition needed to achieve the important self-sustaining creative atmosphere for the undertaking. In theoretical basic research, one or two researchers may be the "critical mass." On the other hand, in complex and larger research efforts, the "critical mass" may be hundreds of individuals from many disciplines. In complex and large undertakings where the "critical mass" is not achieved, researchers tend to pursue smaller tasks individually. The smaller efforts of individuals doing their "own thing" do not often cumulate to produce major efforts. Today we have inadequate numbers of people trained and experienced in this area, and those with this experience are dispersed throughout the government, universities, and research institutions.

As a result, the synergism that can occur when a "critical mass" of people who are problem solvers from many academic disciplines interact has not yet been adequately developed.

POLICY ANALYSIS ROLE

We also need to develop a strong capability in health care policy analysis. The United States, in reality, today has no overall health policy although there is growing recognition of the need for one.

Even the Department of Health, Education, and Welfare with its enormous responsibility in the health field, has no cadre of full time professionals solely committed to policy research and analysis. At the secretariat level, there are a handful of individuals dealing with these matters, but their time and efforts are too often devoted to dealing with present crises or firefighting rather than examining the long-term issues, no matter how important the latter may be.

I might also add that the situation here in the Congress is even more critical. We in Congress should consider establishing a Joint Committee on Health to serve as adjunct to the respective legislative committees of both the House and the Senate. Such a committee could serve a role to the congressional committees with jurisdiction in the health area, similar to that played by the Joint Committee on Taxation in supporting and complementing the Ways and Means and Finance Committees.

It is clear that the resolution of major policy issues will shape the future of health care delivery in the country. Thus, there is a critical need to develop analytical capabilities to cope with the large, complex and long-run issues, while the Nation continues to address the immediate problems in the health field.

Policy analysis then will be an important assignment of the Institute through its policy analysis division. As the committee report says:

> Policy analysis will be an important part of the work of the Institute. The committee intends that there be established within the Institute a Health Policy Analysis Division to enable groups of professionals to concentrate on long-term policies in the health field.

INSTITUTE'S MANDATE

The Institute will be headed by a Director, appointed by the President, with the advice and consent of the Senate. The salary of the Director will be at Executive Level 4, which is similar to and competitive with other Federal research and development agencies. The Institute will also have a Deputy Director and not to exceed four Assistant Directors, selected by the Director.

It will carry out its functions through an inhouse capability and through an extramural effort at the regional health care centers and its two national special emphasis centers, the Health Care Technology Center and the Health Care Man-

agement Center, as well as broad authority to: First, make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit agencies, institutions, or organizations, and second, contract with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and conduct such efforts.

The objectives and mandate of the Institute will be broad. It will pursue all methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States through initiation and support of studies, research, experimentation, development, and demonstration of, but not limited to, 22 specific functions which are spelled out in the legislation. I ask unanimous consent that these functions be printed at this point in the RECORD.

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

FUNCTIONS OF INSTITUTE

(1) The existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

(2) Health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) systems and components of rural health services;

(6) the development of policy with respect to long-term care, particularly for mentally and physical handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) Health manpower credentialing, licensing, and certification;

(10) The medical malpractice problem particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

(11) Programs for educating health manpower and the accreditation of such education programs;

(12) Application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) The efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

(14) The development of tools and methods to improve planning, management, and decisionmaking in the health care system;

(15) The development of information by which quality, efficiency, and cost of health care may be measured;

(16) The development of uniform accounting practices, financial reporting, and uniform health records;

(17) The development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) The needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) The economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) Proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) Concepts and data essential to formation of a factual basis for national health policies; and

(22) The effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

Mr. BEALL. Mr. President, I would like to make some comments on a number of the specific functions assigned to the institute. It will examine the ways physicians and other health professionals are organized and utilized and the extent to which tasks performed by such professionals may be delegated to other appropriately trained individuals. With respect to any illness, we can combine the talents of medical personnel in various ways. Take a routine physical examination. It may be performed entirely by a doctor, by a doctor-nurse combination, with the nurse taking the medical history and the patient's temperature, or by a doctor-nurse-technician team where the technician performs many of the tests and the doctor's role is limited to the interpretation of the results such as in multiphasic screening. These different approaches to the routine physical examination may produce medical care of the same quality.

They, however, carry vastly different implications, both in terms of cost and the utilization of the physician's scarce time. Similarly, experts tell us that from 70 to 80 percent of the pediatrician's medical task could be performed by a trained physician-assistant, such as nurses. Furthermore, it is generally felt that doctors spend too much time on routine tasks, including 25 percent of their time on business, such as bookkeeping, billing, ordering supplies, et cetera. Also, it has been estimated that nurses spend up to 25 percent of their time on paperwork. We need to explore all of these areas and to improve our utilization of scarce medical personnel.

The Institute will study the manpower credentialing and malpractice problem. Both of these issues have been examined recently, but it is important that an examination and followup on these reports be made. Indications are that malpractice insurance may cost some hospitals as much as $2 a day per patient. The malpractice problem has also resulted in what some refer to as "defensive medicine" under which certain tests or procedures are ordered which may not be really necessary in order to protect a physician from a possible charge of negligence. The Institute could use the Federal Government's Public Health Service hospitals and outpatient clinics if license laws prove to be an obstacle to experimentation on the use of new categories of health manpower. Successful experimentation in these Federal facilities should encourage their use elsewhere.

The new Institute also will have the responsibility of examining the efficiency, management, and utilization of new and existing health care facilities including studies of admissions practices, financial reporting, and uniform health records.

Some medical experts estimate that as many as 30 percent of hospital admissions are unnecessary. With the average cost of a single day's stay in any hospital being $100 in many urban areas, it becomes important to avoid unnecessary hospitalization. The U.S. Chamber of Commerce in their excellent study, "Improving our Nation's Health Care System: Proposals for the Seventies," pointed out the need and potential for operational analysis to control cost saying:

> Operational analysis by hospitals should quickly become widespread. One hospital director has in effect a "predicted length of stay profile" for each diagnosis, to use in measuring a doctor's performance. He requires a prospective rather than a retrospective hospital utilization review to be carried out, so that each discharge can be measured against the predicted length of stay for that diagnosis. He suggests greater reward for doctors whose performance results in lowering community costs.
>
> The average length of stay in his hospital is much lower than surrounding institutions. These illustrations suggest the scope for applying to the hospital cost-saving operational analysis familiar to industrial engineers for a generation or more.

An article in Medical Economics of December 1971 features Parkview Hospital in Indiana which "operates with one-fourth fewer employees per patient than comparable hospitals nationally, and at no apparent sacrifice in the general level of care." The cost per patient at this hospital was $58.09 compared with an average of $83.11 for other Indiana hospitals with 250 beds or more.

While I have not evaluated these particular situations personally, I believe they illustrate the potential for operational analysis and the desirability of uniform accounting rules and reporting so that administrators will be able at least to compare the cost and quality of their facility with comparable facilities elsewhere. This should be a useful tool in moderating health costs.

There is also the serious problem of communities and professionals compet-

ing for the most advanced and expensive equipment. This often results in unnecessary duplication. Open heart surgery is a good example. One hospital director has said that open heart surgery requires a team of 12 doctors, nurses, and technicians on constant standby and that 50 operations are needed a year in order to keep the team at its maximum effectiveness and efficiency.

Yet, of the 800 hospitals equipped to do this surgery, one-third do not have a single operation in a year, let alone 50.

A General Accounting Office study recently released points out that the problem of duplication also exists at the Federal veterans' hospitals. The study noted that since 1965 the Veterans' Administration has established 23 open heart surgery centers in its hospitals and that only seven centers during fiscal 1971 performed the minimum number of open heart operations considered necessary.

The Institute would have a mandate to develop and test incentive payment mechanisms that reward efficiency in health-care delivery without, of course, compromising the quality of health care.

The Institute would also examine the applications of all forms of technology including computers and other electronic devices in health care delivery. In this connection the Institute along with the Health Care Technology Center, will examine data processing, which has become standard in other segments of our society. One of the Nation's aerospace corporations did a study of the famed Mayo Clinic and they found that in a $1,000 hospital bill, $300 went to unproductive information handling and filing. Alarmingly, they also found that with all the red tape required, 12 individual steps were needed merely for an X-ray picture—there was one chance in six that the hospital test had some error in it.

The potential of data processing has been illustrated in my State by the Maryland Blue Cross—computer link arrangements with 30 Maryland hospitals. This has enabled Blue Cross to cut its costs of processing patients' admissions and claims by 30 percent from $3.60 per claim to $2.52 per claim.

The Institute should encourage development of preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children. One issue that needs to be answered here is the cost and benefits associated with annual physical examinations or periodic physical examinations at critical ages. With the growing evidence regarding the importance of the early learning years and the growing interest in early childhood programs, I believe it is important that we develop techniques for early detection of physical or mental difficulties that children may have. That is why I have particularly emphasized the early diagnosis for preschool children.

The Institute will give special emphasis to the development of systems and components of rural health services. Certainly, there is little disagreement with respect to the need to upgrade health care in many rural areas.

The Institute will develop policy with respect to long term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aids. Long-term care was one of the areas of concern at the White House Conference on Aging. I believe that society's experience in other area such as mental retardation demonstrates that alternatives to institutionalization are possible.

The Institute will develop and test systems and technical components of emergency health care and services—including at least one experimental statewide helicopter transportation emergency care system—which utilize, where possible, the skills of returning military corpsmen. This is a neglected area and has been called the "hidden crisis in health care" by Secretary Du Val. Injuries are the chief killer of Americans aged 1 through 38. All of us are potential victims. Yet, the fact is that a trauma victim in Vietnam probably has a better chance of survival than an accident victim in the United States. This is because the military, during the Second and Korean wars developed a highly organized system for transporting and caring for the emergency victim. This procedure has been perfected in Vietnam to such an extent that Secretary of Defense Laird has been able to declare that the death rate of such victims in Vietnam was near zero.

The technology and know-how is there; all we have to do is organize on a rational basis and apply these lifesaving methods. Heart attack victims could also benefit from improved emergency care arrangements, as some experts have estimated that prompt and early care might potentially save 150,000 heart attack victims annually.

My own State of Maryland, for example, is pointing the way in this area with its trauma center at the University of Maryland and its four helicopters now in operation. With three or four more helicopters, this system could be statewide and the able director of the center, Dr. R. Adams Cowley, predicts that accident deaths in Maryland could be cut by one-half in 2 years.

I ask unanimous consent that an article from a booklet "Today's Neglected Disease Trauma," written by Dr. Cowley and Lieutentant Hudson on the Maryland program be printed at the conclusion of my remarks.

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

(See exhibit 1.)

TRAINING AND TECHNICAL ASSISTANCE

Mr. BEALL. Mr. President, the Institute will develop methods and support for training of individuals to plan and conduct research, development, and evaluation of health-care delivery and provide technical assistance and develop methods for the transfer of new knowledge, components, and systems to the health community. The Institute is also authorized to exchange information and collaborate with other countries for the advancement of health-care delivery in the United States. The Institute and its affiliated centers will also provide an opportunity for individuals from industry, local and State government and Federal agencies to receive training.

In addition, "alumni" of the Institute and centers will be available for administrative and policymaking positions in the health community.

These responsibilities are critical. Our ability to expand research and development in the health care delivery field will require additional skilled and trained personnel. Yet, the number of economists, physicians, engineers, lawyers, and other experts qualified by training and experience to work in health care research and policy analysis field is limited. I believe that the broad authority granted to the Institute and its centers to develop methods and support for the training of individuals in this field will enable the production of the required manpower.

The Institute should seriously explore the fellowship and training grant mechanism employed so successfully by the National Institutes of Health to lure young talent into biomedical research. Basically, NIH uses two approaches. First, following an individual's intern or residency, fellowships are available on a national comeptitive basis for research. The competitive nature of the fellowship program plus the preeminence of the National Institutes of Health have combined to make this mechanism most successful.

Second, certain universities become training centers for a specific area; for example, heart diseases, and that institution is given a grant by the National Institutes of Health which enables the Institute to attract researchers.

The critical importance of the training function makes it imperative that the Institute capitalize on the experience of NIH and others and provide the support necessary to produce a cadre of first-rate professionals in this field sharing common analytical concepts of understanding.

The Institute may also determine that long-term appointments are needed to attract individuals from academic life and this certainly would be possible under the broad authority also. Furthermore, the Institute or the centers may be supporting or conducting seminars in this area. These examples are only cited as illustrative of the broad authority provided to the Institute and the centers. The specific training program, incentives, and personnel policies will be decided by the Director.

The importance of this training function cannot be emphasized too much, for as the committee report notes—

> The Committee believes that the requirement and training of top caliber personnel must be an important priority of the Institute, for the ultimate success of the enterprise will depend on men and women who direct and work in the Institute and its centers.

I also want to emphasize the important responsibilities of the Institute to see that the results of its research and devel-

opment efforts are disseminated to the health community. The results are of little use resting on a shelf of a researcher. Such results must reach the health community.

MAJOR EVALUATION ROLE

The new Institute will also have a major evaluation role. The Institute will evaluate the quality, effectiveness, and efficiency of Federal health programs, including medicare, medicaid, and the maternal and child health programs of the Social Security Act. For such evaluation, the Secretary of Health, Education, and Welfare is authorized to transfer the evaluation funds appropriated pursuant to section 513 of the Public Health Service Act as he deems necessary.

The Institute will have more expertise, talent and objectivity for evaluation of programs than probably any other Federal agency, and I believe its utilization for this purpose will be exceedingly desirable. There is general agreement that more and improved evaluation efforts are needed.

EXPERIMENT INCENTIVES

The legislation also provides for supplemental incentive grants to encourage experimentation. The basic thrust of this section is that when the National Advisory Council designates a project or a health facility as essential to the research and development efforts of the Institute or centers, and where it is determined that such experimental efforts would not be undertaken without this incentive, the Director could increase or supplement the regular Federal grant-in-aid health programs up to 80 percent.

For example, under Hill-Burton, the Federal program for health facility construction and modernization, the Federal matching in general cannot exceed two-thirds. Assuming that a particular facility was designated as essential, this section would enable the facility to receive 80 percent Federal matching. Not more than 10 percent of the funds authorized by this legislation could be used for these incentive grants to encourage experimentation.

REPORTS

The Director of the Institute, within 1 year after his appointment and prior to February 1 of each year thereafter, is required to prepare and submit to the Secretary of Health, Education, and Welfare for transmittal shortly thereafter to the President and the Congress, a written report including: First, an appraisal of the Institute's activities, and accomplishments; second, a summary of its significant research and development findings; and third, an identification and recommendation concerning those factors or barriers which inhibit implementation of the Institute's significant findings or prevent innovation in health care.

ACTIVE ADVISORY COUNCIL

The Institute will have a prestigious National Advisory Council on Health Care Delivery. This Council will have 21 members, including the Secretary of Health, Education, and Welfare; the chief medical officer of the Veterans' Administration; a medical officer designated by the Secretary of Defense; the Director of the National Institutes of Health; the Administrator of the Health Services and Mental Health Administration; and the Director of the National Institute of Health Care Delivery as ex officio members. The other 15 members will be selected by the President from persons who are leaders in the field of medical science, or the organization, delivery, or financing of health care; leaders in the management sciences; or representatives of consumers of health care. In selecting the membership of this Council, it is my intention that the President search for the most distinguished and talented individuals available. The legislation does not spell out, but it is my intention, and that of the committee, that at least one of the Council members be a practicing physician. At least seven of the Council members must be representatives of consumers. The President will designate the Chairman of the Council and they will meet at the call of the Chairman, but not less than four times a year.

The bill contemplates an active Council and specific responsibilities are delineated in the legislation. The Council will be responsible for reviewing the programs, policies, and priorities of the Institute; examining and coordinating health care delivery efforts within the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication; assuring that significant research and development findings are communicated throughout the health system and to the public; and evaluating the impact that the Institute's research and development efforts are having on the health-care system.

The Council will be independent and will have its own Executive Director. If the Council is to enjoy the independence that the legislation envisions, it is important that it have a top staff person accountable only to the Council.

The Council is also required to submit as an appendix to the Director's report a summary of the progress of the Institute in achieving the bill's objectives and the Council's evaluation of the status of health-care delivery and research and development in the Nation. Any minority views of Council members will also be included in this report.

NEEDED ADMINISTRATIVE PROVISIONS

In drafting this legislation, I have studied the various Federal research and development agencies such as the National Institutes of Health, NASA, the National Science Foundation, and the National Institute of Education, which was enacted into law this year. We have given to the Institute the administrative provisions which seem to be important to a successful research and development effort.

Thus, the new Institute and centers are provided a flexible personnel system to enable the attraction of the most qualified and talented individuals. This will include the authority, when the director deems it necessary, to establish the entrance pay level up to two grades higher than it otherwise would be and the authority to appoint a percentage of the employees without regard to civil service laws.

The new Institute is granted the authority to carry over unexpended funds from one year to the next. This is vital and will permit the Institute provide stable funding for multiyea. projects which are important in research and development.

The new Institute is given multigrant authority which will enable the waiver of certain requirements for undertakings where funds are advanced to a single project by more than one Federal agency. While this is not as desirable as in my original bill, it nevertheless will be a useful provision.

REGIONAL AND SPECIAL EMPHASIS CENTERS

Title V also provides for up to eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The objectives of the regional centers are: first, to enable the study of the different health care problems of the various regions of the Nation; second, to broaden and strengthen the Nation's research and development base in health-care delivery; and third, to link better research and development with actual practice.

It may also be desirable, in addition to the above general purposes and programs, that some or all of the regional centers might specialize in an area or areas such as the malpractice problem and other medical-legal issues; information handling problems; and quality assessment and insurance programs.

The location of the regional centers will be determined by the National Advisory Council. This Council, to the extent feasible, is directed to provide broad geographical dispersion of the centers. When all of the centers are operational, each region of the Nation will be served by a center.

I do want to emphasize that the bill authorizes not to exceed eight regional centers. While I believe that eight centers are ultimately desirable, I do want to underscore the admonition in the committee report that "it is not the intent of the committee that all eight centers be created initially." The committee, mindful of the manpower and other constraints, by this language is stressing our intent that we desire the regional centers to be of highest quality. While I envision that all eight centers will be operational sometime in the future, I want to reach that number without sacrificing quality.

Thus, it may be desirable that only two centers be established at the outset. Then, as the Institute's training efforts begin to produce the additional trained manpower, more centers would be established. An added advantage of this approach is that the experience of the early centers should enable subsequent centers and the Congress to learn and make adjustments as experience indicated where necessary.

The regional centers will be funded initially by the Institute for up to 3 years. Thereafter, following a review of each center's work and operations, by the Director and upon the recommendation of the National Advisory Council, the Director may extend the centers for an additional period of not more than 3 years. After this period, it is my intent that the majority of the regional

centers' support will be program support in competition with other Institutions. I also hope and believe that the States in the regions in which the various centers are located will utilize the Centers for research, development, and evaluation. Thus, at the end of the 6-year period, the success of the center will be determined by the quality of their efforts and the degree of interest shown in their work by the States, local governments, private foundations and industry, and the health care community within the area in which the centers are located. These centers may be managed by a university, or a number of universities and colleges under a consortium arrangement, or by public and private organizations and associations, both profit and nonprofit.

SPECIAL EMPHASIS CENTERS

Two special emphasis centers, health care technology center and a health care management center, are also authorized.

The health care technology center will focus on all forms of technology, including computers, and electronic devices, and its application in the improvement of health care.

Technological advances in such areas as space, communications, and data processing in the last decade have been almost unbelievable. Yet, the technology has not made a similar impact on the health system. In fact, much of the health care system continues to employ the same manual procedures used at the turn of the century. We need to wed 20th-century technology with 20th-century research to improve the delivery of health care. This will be the assignment of the Health Care Technology Center.

President Nixon, in a number of messages to the Congress, has emphasized the need to encourage the application of science and technology to the solution of domestic problems. In his March 2, 1972, Health Message, the President specifically identified health as a "vital area" for exploiting technology.

One must confess that the expectations, particularly in the sixties, that technology would produce a "revolution in health care" have not materialized. The Health Care Technology Center is expected to provide the leadership and mobilize the Nation's involvement and interest in the development and utilization of technology. Particular attention needs to be paid to the involvement of private industry, for the successful development of technology depends, to a great extent, on the interest and actions of private industry. Industry's limited involvement in the health technology area today results from a number of factors including the diffused markets of the health field; the limited success achieved to date; and the Government's failure to give priority to the utilization of technology in solving of health problems as has been done, for example, in space and defense.

Technological solutions are not likely to result unless the above difficulties are addressed.

To do this, there is a need to aggregate both health resources and markets. Once this occurs, I believe industry will identify and take advantage of the economics of scale that generally results from larger markets.

I am convinced that there are steps that the Federal Government in general and the Health Care Technology Center in particular can take to encourage technological development in the health area.

For example, various agencies of the Federal Government operate their own health systems, such as the Defense Department and Veterans' Administration. These Federal health systems offer the opportunity for a market sufficiently large to attract industry investment.

Second, the Federal Government could identify potential opportunity for technological solutions and solicit competitive bids through requests for proposals—RFP's—as is done by the Defense Department. Thereafter, there could be full funding of a prototype followed by a guarantee that a sufficient number would be purchased to insure a profit. The units produced could then be sold, loaned, leased, or donated to individuals or organizations that would use them effectively.

A decision, for example, could be made by the Federal Government to do something about the problems of the visually handicapped in the country. There are about 400,000 legally blind persons in the Nation today. It has been estimated that many of them have a significant amount of visual perception in at least one eye. Optical devices, such as eyeglasses, are of limited value to many of these citizens since such glasses only magnify the image and do not control brightness and contrast which are equal in importance in perceptual acuity. The Rand Corp. has designed and fabricated a prototype circuit television system—CCTV—an electro-optical system involving image magnification, brightness, and contrast. This prototype system has been tested on a number of visually handicapped people ranging in ages from 10 to 83 with a wide variety of eye disorders. Better than 80 percent of the subjects have found the system helpful in reading and writing.

At present, the Rand Corp. is working on a second generation system which is aimed at solving the difficult problem that many partially sighted persons face, namely the transfer of information from one place to another.

The CCTV could well be the forerunner of the new series of devices which would be used to enhance the education of visually handicapped children, to permit partially sighted persons of working age to obtain and hold well-paying jobs which would otherwise be closed to them, and to allow elderly persons with reduced vision to enjoy the pleasures of reading and writing during their declining years.

I cite this as only an example of the problem area for which there exists a sufficiently large market which would undoubtedly create a response from the industrial community as well as lead to a tremendous aid for the handicapped if the decision were made to exploit technology in this area.

The second Special Emphasis Center, the Health Care Management Center, is of critical importance. For as Dr. Kerr White, professor of medical care and hospitals, of the Johns Hopkins University has observed:

> Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels.

The health care management centers will focus on the improvement of management and/or organization in the health field, the training and retraining of health administrators, and the development of leaders, planners, and policy analysts in the health field. The job of the managers in the health field is most complex. The modern manager of a health enterprise, if he is to carry out his responsibilities with maximum effectiveness, must have a basic understanding of a wide variety of management skills and some background in such areas as health, economics, computer technology, and statistics, to mention a few.

Quite often medical administrators are elevated to these positions without adequate preparation for these new responsibilities. Certainly American industry would make certain that its top executives are adequately trained and the health system must do no less. There is also often the need to provide retraining of health managers as is evidenced by the letter I received from one administrator, Dr. Fine, Deputy Commissioner of the Boston Department of Health and Hospitals. He said:

> Practitioners of Health Care Administration, among whom I am one, have been flying by the seat of their pants for too long. The Nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services.
>
> There is moreover, an almost total neglect of more formal continuing education opportunities for health care administrators. . . . After ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g. the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc.

The administrative officer of each regional center and each special emphasis center will be required to submit annually to the director a report which shall include an audit of expenditures; bibliographies, with annotations of research performed; and a description of on-going research programs including a summary of significant research and development findings.

The regional and special emphasis centers have a separate authorization of $30 million for the initial fiscal year and a total of $105 million over a 3-year period. Support for a center, other than support for construction, shall not exceed $2 million per year per center, except for the Health Care Technology Center, and Federal assistance may be used for research and development, staffing and other basic operating costs, training, demonstration purposes, and

construction where the National Advisory Council deems necessary.

The committee report makes a point with respect to the Technology Center's purposes which is important and bears reiteration. The report states:

> The committee wishes to emphasize that the center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology.

In other words, the center should be searching for technological solutions to patient care, health institutions, and systems problems, and not for ways to utilize available technology.

It is also important that the technology or systems that are developed are such that can or will be adopted by the health professionals. It would be also extremely valuable if the Technology Center would develop expertise with respect to technological forecasting so that the consequences, particularly the cost, of new technology might be predicted. Certainly, with the rising health care costs, the health system does not need "technological playthings" which are neither cost effective or fail to increase productivity.

Mr. President, the Senate Labor and Public Welfare Committee, on which I serve, last year heard testimony regarding the potential of the computer coupled with new "health care specialists." The committee saw demonstrated a potential way of extending the doctor in remote areas which have been unable to attract a physician.

The computer is already being employed in such areas as the interpretation of the electrocardiogram and the automation of history taking. Earlier this year, I visited the University of Maryland Hospital Trauma Center and I watched the computer perform a variety of tasks, including the constant monitoring of even the chemical content of the air that the center's severe trauma victims were breathing.

I believe that there is enormous potential for the use of technology that could bring many benefits to the public and the patient. At present, our success has been limited. At present, only a handful of individuals are actively concerned with the technology and its potential in helping to solve health problems.

The Health Care Technology Center is designed to remedy this situation and serve as the focal point for an accelerated group research effort on both program and hardware development.

CONCLUSION

Mr. President, the health care enterprise in the country is our second largest industry today with spending totaling $75 million or 7.4 percent of our gross national product. By 1974, health will probably become our largest enterprise with expenditures exceeding $100 billion.

The magnitude of these expenditures alone argue for an accelerated and strengthened research and development component in the health field. There is considerable public frustration and dissatisfaction with various aspects of health care. The public is alarmed over rising costs. I recently read an Associated Press story which headlined that the hospitals per day costs in 1971 averaged $92.31, an increase of 13.9 percent over the previous year. The story hastened to add, however, that the 1970 increase was 15.7 percent and that hospitals have been able to slow the rate of increase. Think about it, over a 2-year period almost a 30-percent increase in hospital costs occurred. This obviously cannot continue.

The public is also concerned about the manpower and facility shortages as well as their maldistribution and the Congress has taken steps enacting legislation in response to the problem. The public is also distressed that the benefits of medical science and the scientific discovery system are not reaching them.

There is considerable change occurring in the health system, the bill before the Senate today is designed to encourage additional change with the development of health maintenance organizations. The rapidity of change and reform is likely to accelerate in the years ahead. I believe that it is imperative that we strengthen our research and development capabilities in the health area so that we may make more intelligent choices and foster constructive changes. I believe that we desperately need advanced warnings of approaching "crises." I believe we need more information upon which to base decisions and make meaningful comparisons in the area.

I believe we need to sharpen our abilities to illuminate issues and to identify possible options and their implications. I believe we need a framework for evolving health-care policy for the long term while we continue to address the immediate problems. The size of the health enterprises, its importance to the American public, and the growing Federal investment to make it imperative, in my judgment, that research and development in health care delivery become as important and achieve the preeminence of biomedical research in the United States.

The respected Science Journal, in a favorable editorial on my proposal said:

> A major tour de force is needed now to dramatize the importance of rationale organization and planning services . . . if the magnificent benefits of American medical research are meant for all of our people, then an effective science of health care delivery is as important as the medical research itself.

I shall ask unanimous consent that this editorial be printed at the conclusion of my remarks.

As Dr. Kerr White, of Johns Hopkins University, noted—

> The issue in research and development, it seems to me, is the extent to which we are prepared to make Federal, State, institutional, academic, and industrial commitments to aggressive pursuit of improved ways of providing health care.
>
> Acceptance of change is inevitable and recognition that we need more science in health care rather than less seems essential. The point to be recognized is that the sciences required are more than those encompassed by the traditional biomedical sciences.

A new National Institute of Health Care Delivery represents such a "commitment" and will provide the "major tour de force" to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

I strongly urge its enactment by the Senate and the Congress.

I ask unanimous consent that the editorial from Science Journal be printed in the RECORD at the conclusion of my remarks.

I also ask unanimous consent that the portion of S. 3327, dealing with the new National Institute of Health Care Delivery, be printed in the RECORD.

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

(See exhibits 2 and 3.)

EXHIBIT 1

AIR-EVAC HELICOPTERS HELP SAVE LIVES

(By Capt. Frank Hudson and R. A. Cowley, M.D.)

"Since some accidents will always occur, steps must be taken to minimize human losses resulting from them. . . ."

Over the years, we have watched persons with life threatening injuries or illness die at the scene awaiting an ambulance, die on their way to the nearest hospital or die in that hospital due to inadequate facilities, personnel and equipment to offer the necessary immediate treatment and care for survival.

A study in which the deputy state medical examiner participated indicates that roughly 40 per cent of the persons killed in Maryland die in hospitals . . . and half of these could likely have been saved if promptly and properly diagnosed and treated. One concerned researcher's comment sums up the problem:

"It is essential that we strive for a reasonable balance between the need for prompt treatment and the better treatment which may be possible if the injured are taken to trauma centers."

Still, present policy seems to be to transport most injured, without regard for the severity of their injuries, to hospitals whose chief distinction is being nearest the scene. When or if the receiving doctor feels the injury is too severe to be treated in his facility, the patient is transported to another hospital (provided he has survived thus far). This adds up to an appalling waste of time, which can be ill-afforded by the person with the life threatening injury or illness.

To help overcome this problem, the University of Maryland Hospital developed the Center for the Study of Trauma thus providing critical patients the best immediate treatment available in the country. Treatment centers of this caliber are enormously expensive and difficult to staff. As a result one cannot expect rapid development of additional facilities of this type; therefore, it is imperative that safe, rapid transportation be provided persons with life threatening illness or injury so the services of the center are made available to them.

Medical authorities tell us that we should strive to have the severely injured in a well-equipped and staffed medical facility soon after they have been injured if complications from their injuries are to be reduced and their lives saved. Indications are that 30 minutes from the injury to definitive medical treatment is usually acceptable with one hour being the outside practical limit. With the surface traffic congestion of today and insufficient medical facilities equipped to handle the severely injured, the lightweight highspeed helicopter is the most effective and economical way to avoid congestion, cover the distances involved and assure that highway injured receive needed treatment in time.

The State Police are duty bound to assure that the lives and safety of all persons in the state are safe-guarded and when injured or ill come under their care, they receive the best handling possible under existing conditions. Their helicopters provide for transportation of critical persons as an extension of normal police helicopter operations. This provides a sound fiscal base as existing know-how, facilities, equipment and personnel are utilized to the maximum.

The troopers assigned to the helicopters have completed the Red Cross advanced first aid course, receive advanced ambulance attendant training from the Fire Service Extension, University of Maryland, and receive an intensive week of training in the Shock Trauma Unit.

Our cooperative program, one of the few successful programs of this type in the country, has been a simple matter of developing community resources between the university, State Police and the City Fire Department Ambulance Service.

State Police records show that 58,672 persons were injured in Maryland from automobile accidents last year. Of the 787 killed in these accidents, many could have been saved by fast, efficient helicopter service to University Hospital's Shock Trauma Center.

When persons are injured in an automobile accident, volunteer fire company ambulance crews sometimes decide incorrectly to take the most serious to the nearest hospital, even though a helicopter is available.

Such a case happened earlier this year when the helicopter landed near the scene of an accident. The ambulance crew decided to take the most serious case to the nearest hospital. When the State Police helicopter crew delivered the less severely injured victim to University Hospital, the county hospital where the other victim was taken called for the helicopter because they did not have the necessary life-saving equipment. But it was too late.

With a top speed of 150 miles per hour, helicopters can fly from the Maryland-Pennsylvania line to University Hospital in less than 15 minutes and less than an hour from the Eastern Shore. An ambulance, even with wide-open siren, would require at least twice as much time because of traffic congestion especially on weekends when most accidents occur. An emergency in Cumberland would take only an hour to reach University Hospital by helicopter.

Better service can be provided. The most obvious area that needs strengthening is the education and acceptance by police, ambulance and medical authorities to the fact that the best interest of the patient must be served. Some units are still guarding what they believe are their prerogatives, thus causing some critical patients to be taken to an outlying hospital (and often held there) instead of going directly to a major trauma unit. Accreditation and categorization of hospital emergency departments could go a long way toward solving this problem. This approach has long been advocated by the National Research Council's committee on trauma and shock.

While we learn to better utilize equipment, personnel and systems, more high-quality emergency facilities with trauma units will be needed. Quick response helicopter service will also be needed statewide. Tentative studies indicate that as few as seven fully manned helicopters are needed for definitive statewide service.

Why not police helicopters in ambulance service? They complement not threaten surface units. The safety of the few victims demanding helicopter transport is compromised when handled routinely. The police helicopter has been here for years, their crews are vastly experienced in applying helicopter support to civil public service operations. Required communications also have been here for years, the police communications net is one of the finest designated for rapid emergency communications. This is an excellent opportunity for the public to realize a greater return for their investment in government.

A 17-year-old boy delirious, with a high temperature was admitted suffering from a gunshot wound below the knee which was emitting a sweetish odor—gas gangrene. The infection had extended above the knee, to the thigh and onto the abdomen—traditional amputation was impossible. The wound had become contaminated with clostridia, a bacteria causing gas gangrene which can't survive in high concentrations of oxygen. If hyperbaric oxygen was not administered quickly the teenager would be dead. Once placed in the hyperbaric chamber, within 24 hours his temperature dropped, he became alert, and after three days, the gangrene symptoms disappeared—his life was saved.

In shock, the blood pressure falls, circulation slows, and the cells, which depend on oxygen for survival, suffer; if this is not corrected the cells die. Lack of oxygen in cells, called hypoxia, is the prime cause of death in shock. One way to correct this inadequacy is to drench the blood going through the cells with oxygen—hyperbaric oxygenation—in a pressurized chamber.

Few of these hyperbaric facilities exist, therefore patients from nearby states are also treated in the Maryland facility.

In the future, an inhalation poison center will be open using the hyperbaric medical facilities and the Medi-Vac helicopter program for those victims, fire fighters, chemical workers and others throughout the state who will need this resource for survival.

EXHIBIT 2

[From Science magazine, September 1971]

THE TOPSY-TURVEY WORLD OF HEALTH-CARE DELIVERY

(By William Bevan)

In a recent speech Senator J. Glenn Beall, Jr. (R.-Md.), called for the establishment of a National Institute of Health-Care Delivery. In so doing, he has focused attention on a national problem on broad scale and transcendent urgency.

Over the years the American people have prided themselves on being the best clothed, best fed, best housed, best educated, and healthiest people in the world. But recent health statistics give cause for concern. Across the board, we are not the healthiest people in the world, in spite of a number of impressive facts. The nation has spent some $20 billion on biomedical research since the late 1940's. We now have more physicians and hospitals than ever before. And currently we spend for health services more—and the rate of expenditure is escalating more rapidly—than we have ever done before. In the last decade alone, physicians' fees have risen twice as rapidly and hospital charges four times as fast as other items in the Consumer Price Index.

The situation is a complex one. Certainly, the balance among the diseases has shifted toward the degenerative disorders. But, in addition, there are striking geographic variations in the availability of health resources. There are marked differences in availability for urban and rural populations and for the poor and the more affluent. Most insurance coverage is inadequate in that it excludes outpatient and preventive services and only partially accommodates catastrophic incidents. And, generally, resources, particularly those for unusual treatment, are poorly utilized everywhere (If, for example, the utilization of health-care resources were improved by only 10 percent, the saving would be $5 billion. But, with a high proportion of third-party payments, there is little incentive for efficiency. Instead, the trend is to use the higher-cost facilities and services and to make as many of these available as possible.)

The essential ingredients of the Beall proposal merit serious examination. By 1970, health-care delivery had become the nation's second largest industry. But last year only $18 million was spent on research in this area. No other industry can make such a claim. The National Institutes of Health are charged with the technical aspects of prevention and treatment. The Health Services and Mental Health Administration is concerned with health-care delivery, but it has other responsibilities as well. A major tour de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning of services, even though such action would add yet another agency to the welter already existing in the health field. Future legislation would do well to direct its sole attention to the social sciences, both basic and applied, which underlie effective organization and management. Furthermore, the importance of testing and evaluation should receive significant consideration. Already, a number of alternative systems—for instance, group practice, private prepaid care, a variety of community health-care schemes, and health maintenance organizations—are in various stages of design and development, and a nation with an established scientific tradition must certainly recognize the importance of pilot projects.

If the magnificent benefits of American medical research are meant for all of our people, then an effective science of health-care delivery is as important as the medical research itself.

EXHIBIT 3

TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

ESTABLISHMENT OF INSTITUTE

SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of Health care in the United States.

(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

FUNCTIONS OF THE INSTITUTE

SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) preventive medicine and the tech-

niques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) systems and components of rural health services;

(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) health manpower credentialing, licensing, and certification;

(10) the medical malpractice problem, particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

(11) programs for educating health manpower and the accreditation of such education programs;

(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

(14) the development of tools and methods to improve planning management, and decisionmaking in the health care system;

(15) the development of information by which quality, efficiency, and cost of health care may be measured;

(16) the development of uniform accounting practices, financial reporting, and uniform health records;

(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) the needs of individuals, families and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development to educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) concepts and data essential to the formation of a factual basis for national health policies; and

(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary.

ADMINISTRATIVE PROVISIONS

SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

(14) take such other actions as may be required for the accomplishment of the objectives of this part.

(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including travel time. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

COMPENSATION

SEC. 1304. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(98) Director, National Institute of Health Care Delivery."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Deputy Director, National Institute of Health Care Delivery."

ADMINISTRATION OF GRANTS IN CERTAIN MULTI-GRANT PROJECTS

SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

SEC. 1306. Funds available to any department or agency of the Government for health

care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including travel time, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

(f) The Council shall—

(1) review programs, policies, and priorities of the Institute and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

(1) an appraisal of the activities and accomplishments of the Institute and the centers;

(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

REGIONAL AND SPECIAL EMPHASIS CENTERS

SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

(1) construction to the extent that the National Advisory Council determines such construction is necessary;

(2) staffing and other basic operating costs;

(3) research and development;

(4) training; and

(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures. (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fical year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

(c) The term "Federal grant-in-aid program" as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section.

Mr. KENNEDY. Mr. President, I want to express appreciation to the distinguished Senator from New York (Mr. JAVITS) who spoke in support of this program. He introduced S. 833. We borrowed generously from that proposal in a variety of ways in the bill before us today. I thank him for those efforts.

I also thank the Senator from Maryland for his contribution in the development of title V. I hope that this legislation will help make the concepts underlying the National Institute of Health Care Delivery a reality. I want to thank him for his contribution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 92, line 8, insert the word "education" immediately before the word "in".

On page 111, line 14, strike the word "and" and on line 16 strike the semicolon and insert in lieu thereof the following: ", and (iii) education in the contribution the patient can make to the maintenance of his own health;".

Mr. KENNEDY. Mr. President, this is a technical, procedural amendment. The minority is aware of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I have one further technical amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 166, strike lines 1 and 2 and insert in lieu thereof the following:

"of the danger and that it shall seek relief under this section."

On page 139, insert between lines 2 and 3 the following new section:

"ACCESS TO RECORDS

"SEC. 1150. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act."

Mr. KENNEDY. Mr. President, again, this is an amendment of which the minority is aware. It is a clarification of language already contained within the bill.

Mr. COOPER. Mr. President, I am not on the committee. I notice that the ranking Republican member of the committee is not in the Chamber. Has this been cleared with him?

Mr. KENNEDY. Yes. Both of these are technical and procedural amendments. The Senator from Colorado (Mr. DOMINICK) is aware of them.

Mr. COOPER. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMINICK. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 3327.

Mr. DOMINICK. As I understand it, there is no time limit on this bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. I think it would be helpful at this point, since both the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS) have already spoken, if I made a brief general statement, to start with, on the bill.

I think it is only fair to comment that the document room, in printing the report, did not indicate on the face of the report that there were any individual views. I have asked the staff here to note on the reports that there are individual views included within the report, starting on page 161, which were written by the Senator from Wisconsin (Mr. NELSON), in which I joined, and beginning on p. 163, my individual views. I shall have an amendment which will be offered on behalf of myself, the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), and the Senator from Maryland (Mr. BEALL). The Senator from Oregon (Mr. PACKWOOD) does want some time to be able to talk on both the amendment and on the bill itself.

Mr. President, I voted to report S. 3327 favorably because, as I have said on many occasions, I agree with its objectives, namely, to improve the quality and the accessibility of medical care and to reduce its cost, but I am concerned about several provisions which, in my opinion, seriously undermine its ability to achieve those objectives. In my individual views in the committee report, to which I have just referred, I discuss those concerns at some length. I will just summarize them here.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. KENNEDY. I want to say, as chairman of the subcommittee, I regret, as the Senator has pointed out, that on the face of the report there is a failure to indicate that there are included individual views, for which the committee staff accepts responsibility. The minority views are in the report, but that fact does not appear on the face of the report, so that anyone taking up the report, certainly from looking at the face, would not gather that there are such individual views. However, they do appear in the report itself. We accept responsibility for that, and I regret that that exclusion took place. I note that at the outset of the Senator's comments.

Mr. DOMINICK. I thank the Senator from Massachusetts. I, frankly, was not blaming the staff in the least. I thought it was the document room that had made the slip.

As I said, there are individual views by myself, and the Senator from Wisconsin (Mr. NELSON).

I have asked the pages to make notations on the reports as they are put on Senators' desks that there are individual views.

In summarizing my concerns, I want to take up first the definition of health maintenance organization; namely, an HMO. This definition, in my opinion, is too restrictive. A wide variety of organizations can meet the essential elements of the HMO concept—provision of comprehensive services to an enrolled population on a prepayment rather than a fee for service basis. At the risk of oversimplification, the types of organizations capable of assuming HMO responsibilities could be divided into two broad categories: Closed panel group practices, where the physicians providing HMO services practice in a single facility; and individual practice organizations, where the physicians providing HMO services continue to practice in individual settings. The 110 recipients of experimental HMO grants funded by HEW in the last 2 fiscal years include a variety of organizations in both categories.

For the purpose of again amplifying this, the Kaiser-Permanente type program would be a closed panel HMO, where the doctors are employed, they are in a single facility, and they serve a group of enrollees who have prepaid health care provisions under the contract which they offer. In the other type of plan, they could be referred to as foundations, as they are now called, which permit a group of individual practitioners, where a group of practitioners gather together saying that their services will be available to patients at certain prescribed rates, and they will not charge any more than that, where there is peer review, and, in addition to that, they are permitted, over and beyond that, once they have signed these contracts, to have individual practice. This in turn gives the patient the opportunity to choose

his own physician or her own physician. It seems to me this right of choice in a consumer of medical care is perhaps as important as any other single thing which we have in our medical community.

This bill defines a health maintenance organization, however, in a way which would limit assistance under title I to only one specific organizational form; namely, the closed panel group practice.

Under this definition, as I have said, all individual practice organizations would be excluded. Such organizations in rural areas could qualify for assistance under the more flexible definition of "health service organization" in title II. But in urban areas, where the bulk of HMO funds would be committed, only closed panel group practices would be eligible. Moreover, only 20 of the 85 existing groups which provide more than 50 percent of their care on a prepayment basis would qualify structurally as HMO's under this rigid definition now in the bill.

I repeat—only 20 of the 85 existing groups could qualify under the definition in the bill as the committee reported it.

I feel strongly that this narrow approach would be detrimental to our efforts to find improved methods of health care delivery. It operates on the arrogant and unrealistic presumption that closed panel group practice is the one ideal model for medical care delivery, and that further innovation is unnecessary. It further presumes that all providers and consumers of medical care can be forced into this federally defined model. Both presumptions are open to serious question. The closed panel prepaid group practice model has been around since the 1930's. Yet today it encompasses only 2 percent of practicing physicians, and serves less than 4 percent of the U.S. population. On these facts, it can hardly be said that this model has won the acceptance of consumers and providers of medical care.

Title I would authorize $1.025 billion over a 3-year period for assistance to HMO's.

It seems to me that this money should be used in a way which will maximize innovation and competition in developing better methods of health care delivery, and yet preserve a wide range of choice for both patients and physicians. A variety of organizational forms which meet essential HMO criteria should be eligible for assistance and, as I say, I shall at a later date offer an amendment to broaden the definition of the HMO so that individual practice organizations can qualify as well.

I am also concerned about the permanent financing mechanism that this bill establishes. Title III authorizes almost $2 billion over the first 3 years to subsidize the difference between premium costs and what HMO enrollees could afford to pay. Each HMO and HSO—that is, the health service organizations in rural areas—would be eligible for annual grants in amounts up to 25 percent of its total premium receipts in the preceding year. HMO's and HSO's with a disproportionate number of so-called "high-risk enrollees" would be eligible for additional grants in whatever amounts would be necessary to avoid increasing premium rates.

Now, these massive Federal subsidies—and I am talking about $2 billion over the first 3 years—are made necessary by the broad range of services which each HMO is required to make available to its enrollees at one premium rate if it is to qualify under this bill. In addition to basic physician, hospital, and emergency services, the mandated benefit package would include prescription drugs, "medical social services"—whatever that means—vision care, physical medicine and rehabilitative services, mental health services, and treatment of alcoholism and drug abuse.

As most Senators know, I have been working in the Alcoholism and Narcotics Abuse Subcommittee under the Senator from Iowa (Mr. HUGHES), and have been extremely active in it. I do feel that there is need for us to go forward in that field. But whether or not HMO's should be required to provide such services in order to be eligible for assistance under this act seems to me to be somewhat open to question.

Each HMO is also required to provide extended care and dental services to enrollees who elect them for an additional premium. This mandated benefit package must be made available by every HMO without regard to the needs of the enrolled population.

This mandated benefit package must be made available to every HMO, without regard to the needs of the enrolled population. In other words, if you did not have too many people who either had eye problems or needed rehabilitative services, or that kind of thing, or if you had other adequate facilities for mental health, nevertheless an HMO, unless it also offered these things, would not be eligible for assistance.

I might say to the Senator from Massachusetts—and I am not sure I made this specific point in the process of our discussion of these factors in committee, but it is well worth making—that a number of years ago we started what is called the Comprehensive Health Planning program, which is an effort to try to get the people in each State and locality to get together to determine what their actual medical needs are, and to decide what type of facilities or services will be offered in those areas.

In many places this comprehensive health planning program is really just getting underway. In other places it has not gone nearly as far as I would like. But no matter how you look at it, if we put this amount of money in this type of bill, with this requirement for services, the comprehensive health program planning commission might just as well turn up its toes and fade away. It just is not going to leave them any leeway whatsoever to determine what facilities and what types of programs are needed in their particular area.

Even the HMO prototypes such as the Kaiser-Permanente, which I referred to before, do not provide the range of services that this bill would mandate. The result is that no HMO receiving assistance under this legislation could become economically viable. In short, they could never make their own way without a Federal subsidy. Without massive Federal subsidies, their premium rates would not be competitive with other medical plans, such as those offered by insurance companies. Aside from the substantial additional cost that this permanent financing mechanism adds to an already extravagantly expensive bill, it amounts to piecemeal national health insurance, which in my opinion should be dealt with in separate legislation. As I have told the Senator from Massachusetts over and over again, national health insurance is not within the jurisdiction of our committee; it is within the jurisdiction of the Finance Committee.

By spending tax funds to subsidize premium costs for the enrollees in HMO's and HSO's, it discriminates against the tax-paying Americans who choose to receive their medical care from non-HMO types of providers, or who cannot enroll in an HMO because none is located in their area.

Title IV of S. 3327 ambitiously attempts to control the quality of care through establishment of an independent "Quality Health Care Commission," with broad powers to establish and enforce uniform national standards.

Parenthetically I might say that in the hearings on this particular bill, we did not get very much testimony on this point, and I am not a bit sure that to this day people in the medical profession realize the scope of this particular commission. This, I might say, is not an advisory commission. In addition to all the HMO's and HSO's receiving assistance under this legislation, the commission would have jurisdiction over all providers receiving assistance under the Public Health Service Act and the Community Mental Health Centers Act. For example, any hospital receiving funds under the Hill-Burton Act which we just finished extending a few hours ago would be subject to the jurisdiction of this commission. Other providers—and again I am talking about medical providers—voluntarily submitting to its jurisdiction, would be entitled to annual grants equaling 2 percent of their gross annual receipts from delivery of medical services.

The Commission would enforce its quality standards primarily through its power to grant and revoke certificates of compliance which would be a condition of receiving Federal assistance. Time and again, I remember Senators talking about the carrot and stick approach of our categorical aid programs. Here, once again, we are doing the same thing: We are saying to the medical providers of this country, "If you comply with these things, we will give you Federal assistance. If you do not, we will not give it to you, but we will give it to anyone else who will."

So we put the carrot out there, and the stick is that we withdraw this assistance and put them in a totally different competitive position.

The Commission has the power to require repayment of Federal funds previously received by noncomplying providers, and to impose civil and criminal penalties, including fines up to $10,000, for each violation.

In other words, as I pointed out before,

this is no advisory committee. This is, in effect, a Commission whose members have the power to be arbitrary czars over anyone receiving Federal assistance under this act, under the Public Health Services Act, and under the Community Mental Health Act.

It is a very powerful commission. When we started out, I believe that there was a commission of five and there was a provision, which I am sure must have been a misstatement, that not less than two must be consumers. That meant, in effect, that a commission of five could be all consumers, with not a medical man on it at all, in which case the whole medical profession of this country would have been run by consumers.

There are many people who think this might be all right. I do not happen to be one of them. In the process of the committee discussions, we changed this around to a commission of 11, if I can recall correctly, of which not less than four must be consumers. So we at least have some medical input into the determination of what this commission can do. That is a big improvement over what the original bill was, and we are still—and I want to make this clear—giving the commission the power not only to require repayment of Federal funds, where there has been some mistake or some miscalculation, or they do not comply with the rules and regulations; but also to impose civil penalties on everybody involved—11 people, not a jury, not a court trial, not a thing. This is what they can do. For the life of me, I cannot understand why we should give that type of power to such a group.

In addition, eligibility for the malpractice, arbitration, and reinsurance program established in title IV would be conditioned on certification by the commission. In other words, one cannot get malpractice reinsurance and arbitration, as provided under title IV, unless one complies with whatever this commission says.

This is intended, I presume, as an added incentive for other providers to submit to the jurisdiction of the commission. But I think this consideration is far outweighed by the need to make malpractice insurance accessible to all providers.

Incidentally, the malpractice problem we have is one of the reasons why costs in the medical field have gone up as high as they have—the proliferation of malpractice claims or suits and the consequent insurance rates that all medical providers have to maintain.

It seems to me that all providers of medical care should be eligible for the reinsurance program, regardless whether they happen to be certified by the Commission.

Malpractice insurance, as I said, is so expensive now that many physicians cannot obtain it. In two States that I know of, as of last year, there were no insurance companies offering any type of insurance to any doctors.

There are some States in which, as I said, insurance companies will not even write it, due to the unfavorable legal precedents that have been established. This reinsurance program, modeled on Federal flood and disaster insurance, would make coverage available at preferred rates.

Why should physicians—and their patients, I might add—be denied these benefits, simply because they are not certified by the new Quality Commission? Just think of the job it is going to be, in view of the number of physicians we have in this country, 11 people on this Commission, plus the staff, to determine whether each of these medical providers is, in fact, complying with the Commission's rules and regulations. You are going to have an army of bureaucrats out across the country to determine this and to see what the problems are.

So it seems to me that we are going much too far, not only in respect to the medical providers, but also in respect to this reinsurance situation, so far as the Quality Commission is concerned.

Solo practitioners, as pointed out by Senator NELSON during our discussions in committee, particularly in rural areas, are going to have great difficulty in meeting the Commission's uniform national quality standards. Believe it or not—and most people who live in urban areas probably will not believe it—in rural areas there are still doctors who will go out in the middle of the night and will go out in a snowstorm and will go out to a patient's house and will take care of everything from the birth of a baby to an appendicitis to a major operation, and do it as a matter of course.

It seems obvious to me that to try to get these men, who have been practicing and who have been licensed by their own States, to come in and say that they are going to comply with the uniform national quality standards established by this Commission is a little more than anyone should possibly expect. Many of them would be denied certification for malpractice reinsurance for reasons totally unrelated to the quality of their services. For instance, an overworked solo practitioner may be unable to comply with the extensive recordkeeping requirements imposed by the Commission. Further since virtually all physicians are subject to State licensure laws and specialty board certification, there is no real need to require certification by the Commission as a condition of eligibility for reinsurance.

Another problem is that the Commission would have broad powers to make immediate decisions affecting virtually every aspect of the practice of medicine, but with very little information on which to base such decisions.

Control of medical care is acknowledged by nearly everyone to be a primitive field. The data and methodology necessary to impose specific quality criteria probably will not be available pending several years of intensive research.

There is no assurance that the standards imposed by the Commission in the meantime will be realistic. The inhibiting effects on peer review-type quality assurance systems and insensitivity to varying conditions and needs in different geographical areas make uniform national standards a difficult problem.

For example, suppose you have a problem in Alaska in the winter time with the Eskimo population. How do you make a uniform quality standard of care for them as compared with the problems you will have, say, in a suburban area of sunny Florida? How is that going to work? How are you going to say that the same quality of care must and shall be available to each of those areas and that they have to be uniform; otherwise, they are not subject either to this reinsurance or to any of the Federal subsidies we are providing under this law?

For now, I think it would make better sense to leave the burden of quality control with State licensure laws and local peer review mechanisms, subject, perhaps, to monitoring by the Department of HEW on a regional basis.

It ought to be pointed out, also, that the Commission would be expensive. The bill authorizes $1.185 billion for the Commission's activities during the first 3 years. This is the Commission alone. After its initial startup period, it can be expected to be far more costly. The Department of HEW estimates its cost over the first 5 years at more than $6 billion.

Mr. President, in conclusion, the bill has two—at least two—fundamental flaws. First, it is unrealistic both in terms of cost and scope. It authorizes more than $5 billion over the first 3 years. It tries to do too many other things other than to improve the health care delivery system. The development of a more efficient and accessible delivery system is, in itself, a formidable task for one piece of legislation. To the extent that this bill attempts to do more, such as direct financing of medical care by the Federal Government, its chances of improving the delivery system are diminished.

Second, this is a promotional bill rather than an assistance bill. It does not objectively attempt to improve the delivery system. It is designed, instead, to promote one particular form of health care delivery—closed panel group practice, and one particular financing mechanism—direct payments to health providers by the Federal Government, a la national health insurance. The extent of this promotional effort is illustrated by the provision in title V which would amend the National Labor Relations Act to make it an unfair labor practice for employers to refuse to offer prepaid health care plans as part of collective bargaining agreements which include health benefits.

I will say that I doubt there are more than six Senators in this body who had the slightest idea that this provision was in the bill. I am pleased to see that Senator KENNEDY has today modified the bill to delete this provision, and saved me from offering an amendment to try to do it myself. I yield the floor.

Mr. COOPER. Mr. President, I have received many communications concerning the provision in the health maintenance organization and resources development bill, section 503, which would make the failure of an employer to refuse employees the option of choosing a prepaid health care plan when available in the area, and is no more costly than other plans available, an unfair labor practice under the National Labor Relations Act.

I am very glad that the manager of the bill, the Senator from Massachusetts (Mr. KENNEDY) has agreed to remove this provision from the bill. My position on this section is not to criticize a prepaid health plan, but the section creating a new unfair labor practice has no business being in this bill. The bill deals with the development of a health maintenance organization program, a concept which I believe is good and should not be burdened by subjects that properly come within the realm of free collective bargaining. I think the provision is also inconsistent with the principle of free collective bargaining. "Unfair labor practices" relate chiefly to the prevention of free collective bargaining. I am opposed to this section of the bill for it would deny free collective bargaining.

I congratulate Senator DOMINICK who is also a member of the committee which reported the bill for pressing for its removal, and I am glad to support him. I am glad that Senator KENNEDY has responded, I think properly, by agreeing to strike the provision from the bill.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unnimous consent that the Senate proceed to consider calendar order Nos. 1112, 1119, and 1120.

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

U.S. FORGECRAFT CORP.

The resolution (S. Res. 361) to refer the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

KUAY TEN CHANG

The Senate proceeded to consider the bill (S. 180) for the relief of Kuay Ten Chang (Kuay Hong Chang) which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Kuay Ten Chang (Kuay Hong Chang) shall be held and considered to be within the purview of section 203(a)(2) of that Act and the provisions of section 204 of that Act shall not be applicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ANNA KOLBRIASZ

The Senate proceeded to consider the bill (S. 2518) for the relief of Anna Kolbriasz which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Anna Kolbriaz-Sala shall be held and considered to be the natural-born alien daughter of Mr. Vincent Sala, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Anna Kolbriaz-Sala."

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

Mr. SCHWEIKER. Mr. President, S. 3327, the Health Maintenance Organization and Resource Development Act of 1972 is perhaps one of the most important health bills to be considered by the Senate during the 92d Congress. The pending bill is a comprehensive and complex measure which may, when enacted into law and fully implemented, make a major change in the present system of health care delivery in the United States. The Health Maintenance Organization is a health delivery organization whose characteristics include prepaid, periodic payment; comprehensive services; a contract period for services; assumption of the financial risk by the organization; and the group practice of medicine. The HMO represents a departure from the traditional delivery of health care services. This bill creates a new pattern of resources, a new mode of delivery.

In my judgment, the existing health care delivery system does not need to be replaced, lock, stock, and barrel. However, changes are needed in the system. An alternative must be introduced and the HMO represents that alternative.

Mr. President, the bill provides three definitions for the types of organizations designed to deliver health care services, the HMO, the supplemental HMO and the HSO or Health Service Organization. The HMO is a rigidly defined organizational structure which provides very broad health services under very rigid terms. The supplemental HMO is an organization defined in a manner similar to the administration's HMO, but under the bill can only be assisted if there are insufficient funds and applicants for the primary HMO. The HSO or health service organization is highly defined, but the bill permits the Secretary of Health, Education, and Welfare's discretion on the scope of benefits being provided. The HSO is designed for delivery of health services in rural areas.

S. 3327 provides grants for planning and feasibility, grants for development, grants for construction, grants for operating costs, construction loans, operating loans, construction loan guarantees with up to 3 percent interest subsidies and operating loan guarantees with up to 3 percent interest subsidies. In the case of proprietary HMO's only construction and operating loan guarantees without subsidies are provided.

In order to encourage and develop better health services in rural areas, the bill seeks to create relationships between HMO's and area health education and service centers. These area health education and service centers are the result of the recommendation by the Carnegie Commission on Higher Education which suggested that the Nation's medical health science centers, that is, our medical universities, assume a role in the development of area health education centers which would serve as major satellites in rural areas to the university health science centers. These health education centers would have as a nucleus a hospital, usually a community hospital, and would be located in less-populated geographic areas or in urban areas so densely populated that a full health science center could not possibly perform the broad educational research community service functions which the Commission felt was needed. The bill provides grants to universities, regional medical programs, and nonprofit providers for project construction and equipment of facilities to develop these centers which must, according to the provisions of the bill, have a working relationship with the HSO which would be the organization to deliver services. The area health education and services would be the linkage to the university science center.

Mr. President, an important feature of this bill is the section which preempts State laws. In a number of our States, statutes exist which impose a restriction or prohibitions on the establishment of group health practice or prepaid health delivery. The provision in the pending bill would preempt such laws, and allow the Federal chartering of HMO's.

Mr. President, perhaps the most significant provision in the bill is the establishment of a Commission on Quality Health Care Assurance. S. 3327 provides for independent agency to monitor quality mechanisms; prescribe regulations, standards, and norms; certify providers of services through an HMO to operate a malpractice reinsurance program. In addition, the Commission will be involved

in research dealing with measurement of quality.

The Commission on Quality Health Care Assurance would be composed of Presidential appointees including consumers nonrelated to health care delivery. Its duties include the promulgation of standards, qualifications of personnel, composition of medical groups, and other characteristics dealing with adequacy of facilities and equipment.

It will conduct research to develop the criteria for new and improved quality systems and norms regarding processes utilization characteristics and outcomes. The Commission will monitor HMO's, supplemental HMO's, health service organizations, quality assurance systems and issue certificates of compliance. The Commission will conduct hearings concerning the revocation of any certificates of compliance. In addition, it will monitor Community Mental Health Centers and mental retardation facilities and their quality assurance systems. The bill requires the Commission to publish statistics, conduct research, distribute information, provide technical assistance, study the levels, costs, and quality of care under Federal programs, administer reinsurance plans for malpractice, and report annually to the President and the Congress. The Commission could have its own facilities, staff, consultants, and advisory committees. A provision is made for delegation of activities to State agencies having approved plans for enforcement of standards.

Mr. President, the creation of a Commission on Quality Health Care is clearly the most significant feature of this bill.

Mr. President, I also wish to point out to the Senate that the bill provides grants equal to the difference between the HMO or HSO premium and the amount enrollees can be reasonably expected to pay under a premium contribution schedule. Such grants are limited to 25 percent of an organization's previous year's premium receipts. Also, where the HMO or HSO proposes to increase premiums either in whole or in part to the enrollment of a disproportionate share of high risk citizens, the Secretary shall make grants equal to the amount that would eliminate the need for the part caused by such disproportions.

Mr. President, S. 3327 is not without defects. There are provisions which we may find are not workable and will not accomplish what it sought. Certain features in the bill are controversial. Nevertheless, I recommend that the bill be supported by my colleagues. There are clear and obvious pressures on the present health system for a change. The system is not meeting the need for quality health care for more people at lower cost. The problems of accessibility of health care and the rising costs of that care remain. We must recognize that the public has come to believe, quite properly, that access to quality care is no longer a privilege, but a right. Mr. President, we are being called upon to respond, and I believe that the pending HMO bill is an answer. I urge its passage.

SENATOR RANDOLPH SUPPORTS THE HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

Mr. RANDOLPH. Mr. President, I strongly support the measure being considered, S. 3327, the Health Maintenance Organization and Resources Development Act of 1972. The distinguished Senator from Massachusetts (Mr. KENNEDY) has expended much time and energy in bringing before the Senate a measure designed to bring the United States one giant step closer to the realization of a goal which is of major importance to Americans—quality health care for all people.

I have earnestly supported two other recently enacted laws whose purpose is to aid in easing the health care crisis in America—the Emergency Health Personnel Act and the Comprehensive Health Manpower Training Act. This bill fits well into the pattern of those laws.

As Senators know full well, health care is not now being provided to millions of Americans. Millions more are receiving care which I describe as marginal. The committee report on S. 3327 states:

> Although remote rural areas and urbanized ghettos were the first groups to be identified as underserved, extensive health subcommittee testimony showed the health care crisis has already begun to affect millions of middle and upper income Americans.

There is a real danger that the United States may become the least healthy of all the world's developed nations. Amid our great national wealth and high standard of living, this specter of declining health care and rising health care costs is shocking, and yet, I fervently hope, preventable.

S. 3327 is a vehicle by which America can get back on the high road toward better health care. It embodies some new concepts, but the basis for the legislation has been successfully tested.

About 4 million Americans are now enrolled in prepaid group practice programs which can be characterized as HMO's, or Health Maintenance Organizations. The Senate committee report states that:

> There is substantial evidence that HMO enrollees receive high quality care at a significantly lower cost—as much as one-fourth to one-third lower than traditional care in some parts of the country.

In these days of skyrocketing health care costs and catastrophic illnesses which can and do bankrupt even the very affluent, it is imperative that measures be taken to bring health care—all kinds of health care—within the means of the average American.

Although the fundamental concepts in S. 3327 have been fully explained by the able chairman of the Subcommittee on Health (Mr. KENNEDY), it is useful to reinforce them. The bill would authorize grants for planning, initial development, and construction of health maintenance organizations, supplemental health maintenance organizations, and health services organizations. Because high initial operating costs are inherent in these facilities, the bill would authorize both grants and loans to help meet operating deficits incurred during the first 3 years. Grants and loan guarantees would also be authorized for the development, construction, and equipment of area health education and service centers. Loan guarantees and interest subsidies would be available for the construction of ambulatory health care facilities, transportation and communications equipment, and for initial development and operating expenses.

The measure before the Senate would do more. It would authorize capitation grants to the described organizations to enable them to serve medically indigent and high risk individuals where necessary; authorize quality health care initiative awards to assist providers to maintain internal quality control systems; establish a Federal Medical Malpractice Reinsurance Program; establish a Commission on Quality Health Care Assurance; and establish an Institute of Health Care Delivery within the Department of Health, Education, and Welfare.

Of particular interest to me as a Senator from a State whose population has a high rural component, are the proposals in this legislation for health service organizations—(HSO's), and area health education and service centers. These two exciting concepts, in my judgment, will help to provide a dramatic improvement in the availability and quality of health care delivery in rural areas in West Virginia and other States.

The Health Service Organization is a hybrid concept specifically designed to improve health care delivery in rural areas where inadequate transportation and communications, shortages of health professionals and facilities, and widely scattered populations, make quality health care difficult to provide. The HSO idea permits the indirect provision of services through solo practice organizations, which would qualify for support under the bill. An HSO would not be required to provide the full range of medical services necessary to the establishment of an HMO. It would be required to enter into a formal working arrangement with an area health education and service center, and funds provided for HSO's are to be used in part to improve transportation and communications services to make health care more accessible to the enrolled population. Financial support levels are somewhat higher for HSO's than for HMO's because of the higher costs attendant to providing health care in rural areas.

Area health education and service centers will provide clinical training to health care providers in nonmetropolitan areas, stressing cooperative interdisciplinary training in the use of health care teams. It is anticipated that such centers will be hospitals, educational facilities, or other public or private nonprofit entities such as regional medical programs affiliated with a university health center. These area health education and service centers are conceptualized to be satellites for university health science centers, which would provide patient care, especially on a referral basis from remote, outlying areas, education, research, and community service functions, to enrich

the quality and quantity of health care in nonmetropolitan and rural areas.

This legislation holds the promise of a new era of health care delivery in America, in which more and better care is provided to needy people. Highly organized and efficient health service systems, such as are fostered and encouraged through this bill, are consistent with modern, advanced concepts of technology, as well as with the old-fashioned but too often neglected concept of human compassion.

S. 3327 is a forward-looking measure, and one that is worthy of strong support by this Congress. I support it and I believe my colleagues will do likewise.

The PRESIDING OFFICER (Mr. BEALL). The bill is open to amendment.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1447

Mr. DOMINICK. Mr. President, I call up my amendment No. 1447 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 96, line 25, strike the words "as their principal professional activity".

On page 97, line 7, after the word "salary" insert a comma; after the word "or" insert the word "a"; after the word "account" insert the words "or other".

On line 8, after the word "share" insert the words "substantial portions of".

On line 9, strike the words "and substantial portions of".

On line 18 add the following new sentence: "Such group may be organized on a group practice or individual practice basis, and individual physician members may be paid on a fee for service or any other basis, so long as the group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis."

Mr. DOMINICK. Mr. President, I have sent to the desk and had stated an amendment offered on behalf of myself, Mr. BEALL, Mr. PACKWOOD, and Mr. TAFT. A short summary is on each Senator's desk. Its effect would be to make individual practice organizations eligible for health maintenance organization assistance under title I of S. 3327. They are presently excluded by the restrictive definition of health maintenance organization, which can be met only by closed panel group practice organizations.

Under the closed panel group practice model, a group of physicians and health professionals practice together in one facility and treat only patients who are enrolled in a plan entitling them to receive all of their medical care from the group. The Kaiser-Permanente plan is the prototype for this model. It obviously has done very fine work. It now has one going in Colorado, although there it is not now economically feasible, but hopefully it will be over a period of time.

There are about 85 such groups which provide more than 50 percent of their services on a prepaid basis. Most of these are located on the west coast, and on the east coast, between Boston and Washington, D.C.

Under the individual practice model, the member physicians continue to practice in individual or small group settings, rather than as one group in a single facility. Where such an organization agrees to sponsor a prepaid health care plan, member physicians may continue to treat patients who are not enrolled in the plan, and may be reimbursed on a fee-for-service basis by such outside patients. The most prevalent form of this model is the foundation for medical care sponsored by a State or local medical society. The San Joaquin Foundation for Medical Care is the prototype for these. At present there are 61 foundations operating in 27 States. Foundations are developing in 17 additional States.

The chief difference between these two types of organizations is that a closed panel group practice operates out of one facility, while foundations and other types of individual practice organizations are composed of physicians practicing in separate facilities. But they are alike in two respects, which are very important to the HMO concept: They both can provide comprehensive care on a prepayment basis, and they both assume the same responsibilities to their enrollees.

Title I of S. 3327 authorizes $1.025 billion in start-up assistance for health maintenance organizations—grants and loans for planning, development, construction and initial operating costs. Section 1101(1)(A) defines "health maintenance organization" as an entity which provides comprehensive health services directly through its own staff and supporting resources or through a medical group or groups. Section 1101(3) defines "medical group" as a partnership or other association or group of health professionals who, among other things: first, as their principal professional activity provide services as a group to health maintenance organization enrollees; second, pool their income from practice as members of the group and distribute it according to a prearranged salary or drawing account plan; and third, jointly use or share all medical and other records. The effect of this definition would be to limit assistance under title I to closed panel group practice-type health maintenance organization. Medical society-sponsored foundations or other groups of physicians who practice in individual, rather than group practice settings, would be excluded. Such organizations would be eligible for title I assistance under the definition of "supplemental health maintenance organization", but only to the extent of funds left over at the end of each fiscal year after all applications from closed panel group practice-type organizations had been funded. Being realistic, it is extremely unlikely that any significant amount of funds would be available under this provision.

Hence, we are, in practical effect restricted to a closed panel HMO, even though the distinguished Senator from New York tried to put this in as a compromise which would be helpful in providing flexibility.

My amendment would modify the definition of "medical group" so that individual practice-type organizations could qualify for assistance on an equal basis, providing they are able to meet all other criteria set out in the bill. The amendment would remove the requirement that physician members of a group provide services to HMO enrollees "as their principal professional activity." This would be construed to mean that each physician must spend at least 50 percent of his time providing services to enrollees. Such a requirement would be almost impossible for foundations and other types of individual practice-type organizations to meet. One of the basic features of individual practice-type organizations is that while the group as a whole assumes the responsibility of providing comprehensive services to enrollees in the group plan, individual physician members continue to practice in their own offices, and continue to provide services to patients who are not enrolled in the group plan. Further, most existing group practice clinics would be unable to meet this requirement. Such prominent groups as the Palo Alto Clinic, which provides services to 80 percent of its patients on a fee-for-service basis, and 20 percent on a prepayment basis, would be disqualified for HMO assistance. Of course, as the popularity of prepaid medical care increases, the percentage of services provided by any group to HMO enrollees would increase proportionately.

The requirement that all income from services provided by a group be pooled, and distributed to its physician members "according to a prearranged salary or drawing account plan," is intended to preclude reimbursement of physician members on a fee-for-service basis, and would thus disqualify foundation-type organizations. My amendment would permit reimbursement on a fee-for-service or other basis. The critical requirement is that all prepayments for services provided by the group be pooled. Once that occurs, the method of distribution to member physicians is essentially irrelevant.

This point was emphasized by witnesses representing the Department of Health, Education, and Welfare. The most important feature of the HMO concept is that comprehensive services are provided on a prepaid basis. The necessity of staying within a predetermined budget creates the incentive for preventive care in order to avoid expensive acute care. If an organization—whether a closed panel group practice or a foundation—must live within a predetermined budget, it makes no difference how the prepayments are distributed to individual physician members—the incentive is the same.

The method of reimbursement is related to the productivity of individual physician members, however. Where the physicians work on a purely salaried basis, productivity is obviously not affected. That is why the reimbursement method of almost every existing closed panel group practice takes the produc-

tivity of each physician member into account. Whether the salary increases, or is supplemented in accordance with productivity, or the drawing account plan is controlled by a formula based on productivity, the result is the same—if a physician provides more services, he makes more money.

It is difficult to find anything other than a semantical distinction between those methods of reimbursement and the fee-for-service method used by foundations. A foundation-type HMO would establish the maximum charge for each type of service, and where necessary would reduce fees on a prorata basis in order to stay within the predetermined budget. The opposition to "fee-for-service" under these circumstances, therefore, appears to be more emotional than rational. The argument that "fee-for-service medicine" has no cost-control incentives simply does not apply where medical care is paid for in advance, regardless of whether the organization providing the care is a closed panel group practice, or a foundation for medical care.

The requirement that all physician members "jointly use or share medical and other records" would be impossible for individual practice-type organizations to meet. Because their physician members do not practice in one facility, they could not use a single set of records.

Our amendment—I will say to the distinguished occupant of the chair (Mr. BEALL) that it is his amendment as well as mine—would, therefore, require that they share substantial portions of such records. Foundations could meet this requirement by utilizing a computerized record storage system, so that the complete medical history of each enrollee would be available to physician members, even though each maintains separate records.

As a matter of fact, many of the foundations are starting to do that already.

Mr. President, except for the foregoing three changes, all of the existing conditions for eligibility would remain intact, and would apply equally to individual practice-type organizations. For example, the bill contains specific requirements with respect to fixed sum prepayment by enrollees, pooling of income, quality control, comprehensive health benefit package, availability of care on 24 hours a day, 7 days a week basis, open enrollment, uniform premium rates, financial responsibility, bearing of risk by member physicians, consumer representation, and the mix of health professionals which must be represented in each health maintenance organization. This amendment is designed to make the absolute minimum changes in the definition of HMO which are necessary in order for individual practice-type organizations to qualify for assistance. This amendment is not designed to preserve the status quo. If it is adopted, existing foundations would be required to do many things they are not doing now, just as existing closed panel group practices would.

These are the most important reasons why individual practice-type organizations—including foundations for medical care—should be eligible for HMO assistance on an equal basis with closed panel group practices:

First. They can meet all of the essential elements of the HMO concept. They provide comprehensive services to a defined population on a prepayment, rather than fee-for-service basis. Their member physicians are at risk if the cost of services exceeds prepayments. They provide for continuity of care through sharing of medical records. They provide for careful quality control through peer review. Like closed panel group practice HMO's, they would be subject to the jurisdiction of the Commission on Quality Health Care Assurance established in title IV.

Second. The HMO concept has not been tested sufficiently in practice to justify spending the $1.025 billion authorized in title I to promote one narrow organizational form—closed panel group practice. There are only 85 group practices presently in operation which provide more than 50 percent of their care on a prepaid basis. These encompass less than 2 percent of practicing physicians. Only 20 of these—serving 4 million enrollees, or 2 percent of the population—would qualify structurally as HMO's under title I of S. 3327 as it now reads. On these facts, it can hardly be said that the closed panel group practice model has won the acceptance of either the American public or the medical profession. As I pointed out earlier, they started back in the 1930's; so they have had some time to get going.

The purpose of Federal assistance for HMO's is to stimulate the development of improved methods of health care delivery. To limit HMO assistance to one narrow organizational form would be to limit the HMO concept's potential for improving the health care delivery system.

The approach of the bill assumes that HMO as defined in this bill represents the ideal health care delivery system, and that no further innovation is necessary. It further assumes that all providers and consumers can be molded into this one federally defined model. Both assumptions are open to serious question. If we are seriously interested in finding improved methods of health care delivery, HMO should be defined flexibly so that a variety of organizations—existing and new over which may be conceived of in the future—could qualify.

The hearing record on S. 3327 overwhelmingly supports this view. Most of the witnesses who addressed this issue recommended strongly that in order to stimulate competition and innovation, a variety of organizational forms—including the foundation model—should be eligible for assistance. Among them were representatives of the Department of Health, Education, and Welfare, the Association of American Medical Colleges, the American Association of Foundations for Medical Care, the American Association of Medical Clinics, the American Hospital Association, the American Medical Association, Blue Cross-Blue Shield, the Group Health Association of America, the Health Services Research Center of the American Rehabilitation Foundation, the Kaiser-Permanente Foundation—the prototype for the closed panel group practice model—the National Medical Association, and the Student American Medical Association.

Third. Individual practice-type HMO's offer a wide range of choice to patients and physicians. Enrollees in a foundation plan are able to choose from a much larger number of physicians than an enrollee in a closed panel group practice plan.

Let me just make an assumption here. Let us suppose that any Member of the Senate has been going to a particular family doctor for his particular needs or her particular needs, over a long period of time, and all of a sudden decides to enroll in a prepaid medical program as defined under this measure, which was to be supported by Federal assistance. That means, if they are going to enroll in that program, they cannot go to their doctor any longer, unless he goes into a closed panel group.

These patients can continue to see their family physicians who are members of the foundation, and be referred, where necessary, to specialists within the foundation.

This would again mean that most doctors in most areas where a foundation is being formed have been active in the community for a period of time, and are doing a lot of private practice, and once they get into the foundation prepaid situation, they can continue to take care of that family and continue to refer them to any specialists who happen to also be members.

This, it seems to me, is very important to those, particularly the elderly, who have long established relationships with particular physicians. On this point, it should be noted that a significant percentage of closed panel group practice enrollees go to outside physicians for some of their care. A recent study indicated 37 percent of the patients in one closed panel plan went to outside physicians for surgery. This means that though they have a closed panel and a so-called prepaid care system, they are spending up to 37 percent of their medical care dollars outside that closed panel, outside the contracts they have, on individual physicians they happen to think are best for their particular requirements.

Most physicians prefer to practice in individual rather than group practice settings. Only 17.6 percent of non-Federal physicians practice in groups. Less than 2 percent of non-Federal physicians practice in groups which provide more than half of their care on a prepaid basis.

Fourth. All existing resources should be utilized to attack the medical maldistribution problem. The foundation approach has more potential than the closed panel group practice approach for serving physician-shortage areas. Title II of S. 3327 recognizes that closed panel group practice HMO's are unlikely to be effective in rural areas, and accordingly makes individual practice HMO's eligible for assistance there. The same approach should be taken in urban-shortage areas

Due to economic and environmental problems, closed panel group practice HMO facilities are unlikely to locate in inner city areas.

This leaves many inner city residents with access only to care provided through neighborhood health centers, which is inadequate.

Citywide foundation type HMO's would utilize existing physicians and facilities in inner city areas, giving residents there access to another organized system of care. Such foundations receiving Federal assistance will be obligated to use their resources to provide comprehensive care to inner city enrollees. Since foundations utilize existing resources and very little construction is necessary, this could be done more quickly and with less expense than through closed panel group practice HMO's. Closed panel group practice HMO's require 3 to 5 years and $2.5 million to $5 million to get into full operation.

The fifth point is that foundations are doing many innovative things to reduce costs and to improve the quality and accessibility of health care. All foundations use peer review mechanisms to monitor the quality, utilization, and cost of medical services provided by their member physicians. Many foundations perform cost and quality review functions for outside providers. Several foundations have contracted to perform such functions for medicare and medicaid programs. Several are administering areawide hospital utilization review programs based on the certified hospital admission program developed by the Sacramento Foundation. These programs, through a peer review certification system have been effective in reducing unnecessary admissions and minimizing length of stay. Others are involved in communitywide utilization programs for all extended care facilities.

Foundations are also involved in the development of a model treatment program to facilitate the establishment of effective quality control programs.

The Colorado Foundation for Medical Care has received a contract from the Health Services and Mental Health Administration to do a comprehensive survey of Colorado's health-care needs and resources and to develop an improved delivery system through voluntary cooperation of the public and private sectors. The foundation has completed a feasibility study for implementation of a statewide computerized health services information system by January 1, 1974. The foundation has also developed a program to provide comprehensive medical services to approximately 8,000 medically indigent migrant workers. To deal with the migrants' unique continuity of treatment problem, the program includes an abbreviated medical record to be carried by each patient. So that as they go from job to job, each doctor they consult will have an updated medical record on them.

Foundations are working with regional medical programs and comprehensive health planning agencies to provide care to migrants and the urban poor through the use of mobile clinics and multiphasic screening. Several foundations have contracted with the Civil Service Commission to provide HMO services to Federal employees through the Federal employees health benefits program. Several have contracted with States to provide HMO services to medicaid recipients, and several have received HMO development grants from HEW.

In conclusion, Mr. President, it is very clear to me that there simply is no justification for excluding individual practice organizations from HMO assistance under title I of this act. On the other hand, there are compelling reasons why they should be eligible.

The hearing record on S. 3327 overwhelmingly supports their inclusion, and they would be eligible on an equal basis under the HMO bill pending in the House. There are many controversial issues in this legislation, but whether individual practice organizations should be eligible for startup assistance is not one of them. Nearly everyone who has considered that question agrees that the answer is "Yes." I hope my colleagues in this Chamber will agree when the amendment comes to a vote.

All we are trying to do is to say, "Leave the criteria, if you want to, but make the money which is eligible under title I eligible for all the new innovative types of health delivery systems and not just one closed system; namely, the closed panel group."

It would be a little like saying we are going to give Federal assistance to housing, which we do in overwhelming methods; that we will give it only to one type of design structure. We do not do that in the housing bill. We do not do it in any other type of assistance. For the life of me, I cannot see why we should restrict the expenditure of more than $1 billion of taxpayer funds to the one type of program as it is defined under title I at the present moment.

As I have said, I am going to give full credit to the Senator from New York, who did his best to get around this situation. But the problem with the amendment he offered, and which was accepted, is that no money is available after all the applications from closed panel groups have been funded.

Mr. KENNEDY. Mr. President, I intend only to briefly respond to the observations that have been made by the Senator from Colorado.

I just have a couple of points which I do think should be underlined at this point in the discussion. First of all, foundations are treated in title II, the "Health Service Organizations" title, equitably. So in all of rural America, wherever foundations are developed, they will be treated identically with the Health Service Organizations. There will be absolutely no change, no alternative, no difference in those particular provisions. So in the areas of rural America, they absolutely will be treated the same.

There is almost a suggestion in the remarks of my good friend, the Senator from Colorado, that for some reason we have something against—or those that are supporters of the bill have something against—the foundation. Absolutely not. They have been growing; they have been developing. They are worthwhile organizations. They have been springing up all over the country, and their growth in the last couple years has been truly outstanding. In many instances they have been useful and helpful in providing better quality of health for the people in this country. But even given the enormous growth in recent times, one just cannot get away from some rather fundamental kinds of assets that exist within the HMO, as defined within title I of the bill. However, before getting very briefly into those differences, I think it is important that we realize at the outset that under title II, in all of rural America, the foundations are treated the same.

Mr. DOMINICK. Will the Senator yield for a question on that point?

Mr. KENNEDY. I yield.

Mr. DOMINICK. In order to enliven the debate, if the Senator from Massachusetts thinks this is fine for the rural areas, why does he not think it is also fine for the urban areas?

Mr. KENNEDY. I will be getting into that. The point remains, with regard to the rural communities—before getting into the urban areas—that the rural communities are considered equitably.

Obviously the Senator from Colorado understands the difference in the availability of manpower availability and a whole wide variety of different health needs for rural America and urban America.

Second, with regard to the HMO's, the foundations will be equally eligible for a wide variety of other forms of assistance under the bill. They will be eligible for subsidies for capitation, for the open enrollment provisions, for malpractice protection, for incentive awards, as well as the provisions of the bill with regard to the preemption of State laws. The only thing they will not be eligible for will be the startup costs of the HMO under title I. It has certainly been the experience to date that the foundations for the most part have developed without sizable startup costs essential for the development of HMO's in the urban areas. So there should be a distinction.

Next, we are not, by the passage of this law, preempting any kind of system for the delivery of health care. If a family wants to use their same family doctor, they can continue to do that. Nothing we pass in this legislation will prohibit that practice. All we are trying to do is to encourage the development of the Health Maintenance Organization as a viable alternative so that the American people will have a choice.

We have the one feature of providing health assistance for those individuals who are restricted financially. There are some rather outstanding characteristics for the health maintenance organization. We recognize that with the development of them, we will have integration among the various specialties which we do not have with a wide diversified system. There will be integration of these various specialties. We will have the efficiency of a unit record system. We will have the advantage of one-stop shopping. If someone has some kind of illness or sickness and he goes into a health maintenance organization, hopefully, no matter what his sickness, he will be able to be treated

in that health maintenance organization and not be shunted from one specialist to another. It will have the great advantage of peer review.

So these are just some of the advantages we have seen in the course of our testimony to be helpful to the consumer. I think they commend themselves to the Senate. I would hope that what we would do would be the position of Congress, that we would provide these incentives to what I believe to be the most forward looking system for the delivery of health care in this country.

Other provisions in this will help and assist the foundations in developing and providing services. If, over a period of any reasonable length of time, the foundations have been disadvantaged or discriminated against, there will be ample opportunity to consider that and to consider ways of helping and assisting them.

But in order to develop the work, there is no reason further to diffuse the limited resources—and there is a sizable amount of money involved here, $5 billion for the various provisions of the bill.

There will be resources in here for planning the health maintenance organizations. The initial startup cost will be supported for a limited period of time. We know that these are enormously complex and complicated developments. The best estimates we have range from $50,000 to $250,000 for the development of these HMO's. With the construction facilities they have gone up as high as $10 million.

So there are expensive programs but they are out in the communities where people can have access to them to meet their health care needs. They need that initial kind of capitalization, I think, if we are really interested in reaching out to provide the kind of incentive to the development of these facilities.

I am not going to get into the various other aspects of the health maintenance organization at this point. The range of services is wide. The options in the benefit package are in terms of dental care and other services, or in the role of the consumer in making policy. These have been included. If there are amendments on them, we will be glad to discuss them further.

But it seems to me that, although we are really interested at this time in trying to encourage the prepaid group practice, there are a number of people in this country who are opposed to it. Only a few years ago, when any kind of prepaid group practice program was developed, the authors of such programs were labeled as medical Soviets. There are still, as we pointed out, 22 States that prohibit the development of a prepaid group practice. So there are those elements in organized medicine who are absolutely opposed to these efforts in what, I think, has been a proven record of achievement and accomplishment, and, I must say, not of lesser importance, the savings, costwise, in providing quality health care.

So I would hope that, recognizing the foundations themselves will be eligible for a wide range of different benefits under this legislation in the title II provisions, and in a number of different provisions. Then, if there does come a need for additional kinds of capitalization outside of the amendment included in the program by the Senator from New York, we can consider it at that time, based upon a documented record with respect to the need for Federal assistance for such support.

Mr. DOMINICK. Mr. President, I have listened with great interest to the Senator from Massachusetts. I know the amount of work he has put into the medical field and his desire for new and innovative approaches to health care delivery systems and a lot of other things. For the life of me, I cannot understand why he is in opposition to this amendment. He supports innovation and flexibility in medical care delivery, and yet title I of his bill would restrict the $1 billion it authorizes to one single type of delivery system. It simply does not make any sense to me.

Different types of areas are different. Maybe the State of Colorado is more advanced than other States. Maybe the State of Minnesota is more advanced than other States in the development of health care delivery systems. Whether we are advanced or not, there is always room for improvement. That is the great thing about this country, there is always room for improvement. Nothing is perfect. Each generation, hopefully, gets better and better. But to say that we are going to take $1 billion of the taxpayers' funds and spend it on one preconceived idea of what might be good for a health delivery system is, in my opinion, totally wrong.

I might say that even Kaiser-Permanente, the prototype of the closed panel group practice model, disagrees with this approach. Robert Erickson, vice president for legal and governmental relations, Kaiser Foundation Health Plan in Oakland, Calif., testified on this point.

He said:

> We do support the HMO concept, particularly those aspects of it which would encourage organized delivery systems that assume responsibility for comprehensive health services for a defined population.
>
> We also very much favor the aspects of it which encourage pluralism in the organization of health services and competition between competing health care delivery systems. We think this is perhaps the best way to improve health care and control costs in the health care field.
>
> The Kaiser-Permanente program is one of a number of alternative organizational arrangements within the HMO definition. We are not the prototype in our eyes; we are one of the prototypes; and there is room for and there will be many other types of HMOs.

Mr. President, what I am saying in this amendment is, let us have other forms of HMO's. Let us give the foundations a chance. Let us not spend $1 billion on one preconceived idea, namely, that the closed panel group practice is the only type of organization entitled to Federal assistance. There are all kinds of health systems which can and should be aided if we are going to go this HMO route at all. If this is such a radical idea, why are they eligible under the House HMO bill, and why did virtually every witness who testified before our committee agree they should be eligible?

I would say once again insofar as urban areas are concerned, as referred to by the Senator from Massachusetts, that it is far more likely that we are going to have individual practicing doctors in an inner city who will be part of a foundation than to have a whole closed panel group practice—the building, offices, computerized systems, and all of the equipment that goes with it—move into that particular area. A foundation which will stretch into that area and be able to work with other individual practitioners who are capable in their field is going to give the needed aid much more quickly and, as far as I am concerned, much more efficiently than is the closed panel. And I am not ruling that out. We can have both. We are not saying that we should stand pat. We are not saying that we do not want closed panel groups. We recommend that.

We are saying, "Let us not restrict it to just one. Let us make it broader and have the opportunity of doing something about getting enough flexibility, as advocated by the members of the closed panel groups themselves, so that we can continue to improve medical care delivery."

Mr. President again let me read from the hearing record.

Mr. Stephen M. Morris, president-elect of the American Hospital Association, had this to say:

> Maximum flexibility must also be assured through varied organizational forms for HMO's. Referring back to Dr. Ellwood, he has identified only two possible models, the prepaid group practice model and the medical care foundation model. We have identified four basic models; (1) the single corporate entity, (2) the physician's corporation and an institutional corporation combined under a single board—the Kaiser model, (3) the consortium model which provides a coordinated management for several independent institutions, and (4) the "Samaritan model," in which a large urban hospital provides administrative and professional services to a group of smaller institutions, a model which particularly serves the need for rural health care.
>
> There are, to be sure, other appropriate organizational models for new delivery systems. Maximum flexibility is required. We believe the only organizational criterion for an HMO should be its ability to deliver comprehensive health care services to a defined geographic area.

That is all I and the other sponsors of this amendment—the Senator from Maryland (Mr. BEALL), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Ohio (Mr. TAFT)—are trying to do. We are trying to provide needed flexibility so that if one system works better in one area than another, we could give the assistance needed to get it started. If one system proved superior to the other in the way of giving prepaid and lower price care, we could emphasize that for all areas of the country.

Heaven knows, we are diverse in background, geography, and resources, and unless we have diverse systems for the delivery of health care, it seems to me that we are going in the wrong direction.

Secretary Richardson, the Secretary of Health, Education, and Welfare, in his testimony at page 1793 of the hearing record emphasized the administration's support for this approach. In describing the definition of HMO in the administra-

tion's bill, S. 1182, which I cosponsored, he said:

It is important to add at this point that this definition does not restrict HMO's solely to one form of organization for medical practices. Such an organization can have a variety of forms and sponsors. As the President remarked in his 1971 health message, "One of the strengths of this new concept, in fact, is its great flexibility."

Thus, although the HMO concept encompasses the well known prototype prepaid group practice arrangement, it can also cover organizations which use physicians practicing in an individual setting, such as the various types of medical care foundations which are developing rapidly in many parts of the Nation. Our concept would include these organizations if they assume the financial risk of physician and hospital services, and if they take steps to assure their membership entry into the health care system and continuity within it.

This deliberate diversity is designed to build upon the strengths of our pluralistic system and to offer a significant range of choices to providers and consumers alike.

Mr. President, I sincerely hope that the Senate in its wisdom will adopt this amendment and give us the needed diversity that we should be permitted if we are going to be spending the taxpayers' funds for the benefit of the people of this country, for the benefit of the people who pay the taxes, and for the benefit of people who, unfortunately, have not enough income to pay them at all. And unless we can give them diversity, as would be accomplished by my amendment, we are restricting our efforts and restricting our ability to deliver medical care to the American people.

Mr. KENNEDY. Mr. President, does the Senator have figures concerning how many foundations are or are not being currently run by the medical profession at the present time?

Mr. DOMINICK. The answer is that almost all foundations for medical care are sponsored by State or local medical societies.

Mr. KENNEDY. Yes.

Mr. DOMINICK. We are not changing any of the criteria the Senator set up in his bill. If they are going to be qualified as an HMO under the bill they have to meet those criteria, which is like a closed panel.

Mr. KENNEDY. Mr. President, I say finally and briefly that we hear a great deal of talk about pluralism and diversity in the health delivery system. We do not have pluralism. Ninety percent of the services provided American people are under a system of fee for service and 4 percent are under a prepaid practice. The system today works to the disadvantage of prepaid service.

What we are doing here is to offer some innovative help and assistance for those who are going to benefit from prepaid group practice, for the benefit of the consumer, so that in rural America and urban America a patient can go to one facility and not be shunted all over town and get half a dozen different bills. His family would be able to avail itself of the same service.

Once he enters the health care system he will continue in that system, with referral to the hospital, or whatever his need may be, until he is better. That is what I think we need in this country and it is what 8 million Americans are receiving today. This is not a new, radical, wild idea. This has been in effect for 40 years. But it takes startup capital cost. What we are trying to do, if one will read the bill all the way through, is to provide these HMO's and HSO's, which would be consumer run. We will make them nonprofit. That is a credit to the nonprofit HMO's.

But to listen to my friend from Colorado about opening up funds, it would provide hundreds of millions of taxpayer dollars to subsidize medical societies in this country.

I say that we want pluralism and we should not have the kind of profiteering in the health care system that is now present.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. KENNEDY. I shall yield in just a moment but I wish to complete my statement now.

This is what we are trying to do in this approach. We are trying to provide the incentive so that we can build and provide health assistance. I repeat that foundations will be treated in rural America the same as HSO's, and they will be treated in title I the same as HMO's. All will be included; they are only restricted on capitalization.

I wonder why we want to open up taxpayer dollars to subsidize the medical societies in this country, when these foundations are growing like topsy, with the medical societies providing those fees for service. Mr. President, the sicker you get, the more it costs you.

We should be trying to get at that particular issue. Those of us who support this are interested in pluralism. We want to permit the present system to continue for those who want it to continue. If a person is sick and wants to use the family doctor, fine; if he wants to continue the fee for service, fine. Nothing in this bill would require him to go to an HMO or HSO.

But the thousands of people who live in rural America and urban America, who want to go to one facility, and who want to say, "Doctor, I am sick. What can you do for me?" and be able to go to one facility, this would provide that means because those who live in rural America, in urban America, or in the suburbs of America are so heavily taxed by property taxes and other taxes that they do not have the ability to develop those facilities. But if we provide the kind of incentives we provide here, with the kind of strict enforcement we try to include here for quality control—and I wish they were consumer run programs—but with heavy consumer input on this, we try to provide health care to hundreds of millions of Americans who today are completely confused about how to get decent health care. They go first to one doctor and then to another doctor, which adds up the medical care bills, and unless they have been going to him for years they do not know if they are getting the best in health care.

I yield to the Senator from Colorado.

Mr. DOMINICK. I am happy to hear the Senator come out fighting. I find that in his statement he contradicts himself four times in four sentences.

First of all, he opposes my amendment on the ground that it would subsidize the medical profession. Yet apparently he is willing to subsidize them in rural areas, because foundations in rural areas would be eligible under title 2.

Mr. KENNEDY. That is correct, and I am sure——

Mr. DOMINICK. If the Senator is going to do it there why should he not do it in the urban areas?

Mr. KENNEDY. If the Senator will permit me to answer, there is more need for development of facilities in rural America. With the range of different specialists available you have to have a more flexible approach. That is what we are trying to provide. We provide a waiver provision, and the range of services.

This is the kind of approach we should have and the kind of flexibility we should have for development within rural communities. I agree. I think we have to give help and assistance because of those needs which are differentiated from urban areas.

Mr. DOMINICK. The Senator wants flexibility in rural areas but not in urban areas. I want it in both. That is my point.

Second, it would appear that while he objects strenuously to "subsidizing" members of the medical profession who happen to practice in individual settings, such as foundations, he is more than happy to subsidize members of the medical profession who happen to practice in closed panel group practice—to the tune of $1 billion over the first 3 years. It does not make sense to me.

I do not see any reason to say we will spend only $1 billion on one form of care when we need the most innovation we can provide to take care of rural areas as well as urban areas.

Mr. President, I am ready to vote.

Mr. KENNEDY. I am ready to vote.

Mr. PACKWOOD. Mr. President, I would like to associate myself with the views expressed by the very distinguished Senator from Colorado (Mr. DOMINICK) and support his amendment to S. 3327 on medical foundations.

This important amendment will include medical care foundations and will thereby greatly improve the flexibility of the HMO program we are authorizing. As a result, it will significantly increase its potential for making a major impact on health care improvement.

Without this amendment, the bill would limit HMO's in urban areas to closed-panel group practices and would thereby imply that further innovation or experimentation is unnecessary. This assumption is unrealistic, to say the least, from both the patient's and the practitioner's point of view, the closed-panel approach may not be the most desirable one. If the objectives of the HMO concept can be reached without the straight-jacket requirements of closed panels, we have an obligation to allow maximum freedom.

Furthermore, Mr. President, it is much too early in the history of HMO development to restrict participation to one narrow organizational form, whatever it be. The real issue to which we should

properly be addressing ourselves is not to choose which system is ideal, but rather to provide a wide range of choices to providers of health care and consumers alike.

Mr. President, we live in a pluralistic society. We must maximize freedom of choice. We must encourage a variety of organizational forms—not just one monolithic model—in order to stimulate innovation and competition.

The scarcity of medical resources in rural and inner city areas is one of the most difficult and urgent medical problems facing us today. S. 3327 recognizes this problem for rural areas in that it provides for a variety of HMO organizational structures, including the foundations. But the bill ignores the resource problem in relation to inner city areas. The legitimate argument that all available resources should be marshaled applies with equal force to underserved areas in urban settings. Witness after witness supported this view in extensive hearings we held on this bill. It was pointed out that closed-panel group practices would probably not locate in many of the most needy urban areas, and of those who do. Most could not survive economically without massive Government subsidies. An urban foundation-type HMO could serve the area and, furthermore, could accomplish the necessary mix of enrollees that is vital to HMO success.

For HMO development to really take hold in this country, active and massive participation by health providers and consumers alike is needed. A flexible system that maximizes alternatives will thrive. A rigid organizational plan, as outlined in S. 3327 without the Dominick amendment, is likely to fail.

Mr. JAVITS. Mr. President, I am opposed to the amendment offered by Senator DOMINICK. It would, in effect, not only provide that medical care foundations are placed on an equal basis for Federal financial assistance, but also "water down" the committee's carefully structured and defined classic HMO.

I emphasize again that an individual joining an HMO is voluntary—not compulsory.

The amendment would no longer require the medical group forming the HMO to engage in the coordinated practice of their profession as "their principal professional activity." Thus, the medical group's responsibility to be principally concerned about the health care of a defined patient population would be negated. Rather, such a defined patient population would become a segment of each physician's overall patient load and readily identifiable as such.

The amendment would mean the individual doctor in his separate individual office, on an individual fee-for-service, without assured continuity of health maintenance could continue without real change in the system being effectuated. This is true because the amendment's addition of "other" would clearly permit fee-for-service as the means of physician reimbursement. And, rather than requiring the physicians to "jointly use or share medical records", it modifies this to include only "substantial portions" thereof. I believe the amendment would result in no major change in a real sense in the health care delivery system from what it is now.

Let me make clear that my opposition to this amendment does not mean that I do not believe medical care foundations offer a potential also for improving the health care delivery system, and I cite, for example, the accomplishments of the San Joaquin Foundation. However, the medical care foundation is at the initial stage of its development and what it will do precisely is still undetermined while the classic HMO is clearly defined.

My support for the potential for change offered by the medical care foundation is readily seen in the provision in the bill I authorized—section 1109—which authorized funding assistance for the development of "medical care foundation supported HMO's which can meet reasonable criteria—similar to those in the administration bill I introduced. Also, I supported the bill's provisions to provide funding assistance to medical care foundation HMO's—defined as health service organizations in the bill—for rural and other non-metropolitan areas.

However, the record should be made clear that medical care foundations are not philanthropic organizations. Rather, they are a concept for a system for the delivery of health care. I believe the medical care foundation does seek to improve the health care delivery system—although I recognize the concern expressed by many that the medical care foundation is organized medicine's response to maintaining the status quo—but not to the degree contemplated by the pending bill's criteria for HMO's and, therefore, medical care foundations should not—until they are prepared to meet such criteria—be eligible for Federal support on a first dollar basis.

The American people have a right to free choice in how they elect to receive health care. That is the intent and purpose of the bill—to give our citizens a choice—and the amendment would stifle that choice. At present, there is, in reality, no choice, for 96 percent of medical care is provided by solo practice or specialty group on a fee-for-service basis, and only 4 percent of medical practice is in the form of the HMO model.

If we are to make the right of free choice a reality, we must supply incentives for changing the pattern of how medical care is provided.

The bill stimulates the development of HMO's. Thus, the American people can then freely make the decision of whether they prefer the bill's multigroup practice in which salaried medical specialists and other health professionals and allied health personnel offer one stop health care for a predetermined fixed annual amount or the existing system, a fee for each service rendered—if they have the means to pay the fee and can find the physician to render the service.

I am deeply concerned that the bill's economic incentive for the providers to avoid over-utilization of health care services will be overturned by the amendment's support of fee-for-service. The AMA has publicly stated, in response to questions regarding HMO's during the committee's extensive hearings, that:

> In individual cases, medical services could be encouraged in fee-for-service practice.

Also, I am concerned that first dollar support of a watered-down medical group, contemplated by the amendment, will indicate support for the retention of provider dominated "policing" of health care. Because of the economic incentive for efficiency, there is the potentiality in the HMO model for under-utilization of services and, if for no other reason, it is therefore urgent that patients have input into the issue of quality of care provided. I believe it is time that patients had input not only into the formation of HMO's, but also into the review of the quality of the care rendered. The input of nonphysicians is essential if we are to effectively improve the Nation's health care delivery.

Mr. DOMINICK. Mr. President, so we may have more Senators to ask for the yeas and nays, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Colorado (Mr. DOMINICK). The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) and the Senator from Florida (Mr. GURNEY) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend the Interparliamentary Union meetings.

Also, the Senator from Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 37, nays 40, as follows:

[No. 461 Leg.]

YEAS—37

Aiken	Dole	McIntyre
Allen	Dominick	Packwood
Beall	Eastland	Pearson
Bellmon	Ervin	Proxmire
Bennett	Fannin	Roth
Bentsen	Fong	Scott
Byrd, Harry F., Jr.	Gambrell	Smith
	Griffin	Spong
Chiles	Hansen	Stennis
Cook	Hatfield	Talmadge
Cooper	Hruska	Weicker
Cotton	Jordan, Idaho	Young
Curtis	Long	

NAYS—40

Anderson	Harris	Moss
Bible	Hart	Nelson
Boggs	Hughes	Pastore
Brooke	Humphrey	Pell
Burdick	Inouye	Percy
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Kennedy	Schweiker
Church	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Eagleton	Mathias	Symington
Edwards	McClellan	Tunney
Fulbright	Mondale	
Gravel	Montoya	

NOT VOTING—23

Allott	Hollings	Saxbe
Baker	Jordan, N.C.	Sparkman
Bayh	McGee	Stafford
Brock	McGovern	Taft
Buckley	Metcalf	Thurmond
Goldwater	Miller	Tower
Gurney	Mundt	Williams
Hartke	Muskie	

So Mr. DOMINICK's amendment (No. 1447) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of Section 602(b), Public Law 92-352, the Speaker had appointed Mr. ZABLOCKI and Mr. MAILLIARD; and Dr. Stanley P. Wagner of Oklahoma and Dr. Arend D. Lubbers of Michigan, from private life, as members of the Commission on the Organization of the Government for the Conduct of Foreign Policy.

The message announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 345. An act to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes; and

S. 447. An act to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 12207) to authorize a program for the development of tuna and other latent fisheries resources in the Central and Western Pacific Ocean.

The message further announced that the House had agreed to the amendment of the Senate to the amendment of the House to the concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution (H. Con. Res. 553) authorizing certain printing for the Committee on Veterans' Affairs.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 5668. An act for the relief of Capt. Ronald W. Grout, USAF.

H.R. 6318. An act to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes;

H.R. 10330. An act to provide for the distribution of funds appropriated to pay a judgment in favor of the Cheyenne River Sioux Tribe in Indian Claims Commission docket numbered 114, and for other purposes;

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes;

H.R. 11035. An act to amend title 10 of the United States Code to designate the medal of honor awarded for military heroism as the "Congressional Medal of Honor";

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal employees' group life insurance purposes during a period of erroneous removal or suspension;

H.R. 15659. An act to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government;

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes;

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia;

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary; and

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 5668. An act for the relief of Capt. Ronald W. Grout, USAF;

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia; and

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary; to the Committee on the Judiciary.

H.R. 6318. An act to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes;

H.R. 10330. An act to provide for the distribution of funds appropriated to pay a judgment in favor of the Cheyenne River Sioux Tribe in Indian Claims Commission docket numbered 114, and for other purposes; and

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 11035. An act to amend title 10 of the United States Code to designate the medal of honor awarded for military heroism as the "Congressional medal of honor"; to the Committee on Armed Services.

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension; and

H.R. 15659. An act to extend Civil Service Federal Employees Group Life Insurance and Federal Employees Health Benefits coverage to United States nationals employed by the Federal Government; to the Committee on Post Office and Civil Service.

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes; to the Committee on Appropriations.

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears; to the Committee on Foreign Relations.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

(The remarks that Mr. PASTORE made at this point when he introduced S. 4010 and the ensuing discussion are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organization, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

Mr. CRANSTON. Mr. President, S. 3327, the proposed "Health Maintenance Organization and Resources Development Act of 1972" which has been reported from the Labor and Public Welfare Committee under the leadership of the Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee and the Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcom-

mittee on Health, the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER), the ranking minority members of the full committee and the Health Subcommittee respectively, is a major legislative step toward encouraging the development of systems capable of providing comprehensive health care of high quality in an efficient and economical manner.

The committee has held extensive hearings on the need for such systems and on the effects of the establishment of such systems on existing medical resources and the community's ability to respond to the individual patient's needs. Considerable testimony was heard and evidence presented to the committee which has been taken into account in our development of the bill as reported. The members of the committee all participated fully and in great detail in the development of the bill and devoted considerable time and effort to marking it up. The result is a bipartisan effort which I believe responds to one of the greatest needs of the Nation's health-care system in an effective and realistic manner—an alternative to fee-for-service care.

I was particularly gratified with the responsiveness of the members of the committee to several suggestions I made to amend the legislation.

These suggestions were to:

First, expand the consumer and other health disciplines role in quality care assurance systems;

Second, expand the consumer role in the health maintenance organization and health service organization;

Third, increase emphasis on the participation of all health disciplines in the management of the system and in the provision of health services;

Fourth, provide for reciprocity between HMO's and HSO's in providing essential continuity of services to enrollees who may travel outside the geographical area of their home-based HMO or HSO;

Fifth, include greater specificity as to services included in preventive health services; and

Sixth, utilize the skills of clinical pharmacists to the greatest possible extent.

EXPANSION OF THE CONSUMER ROLE AND GREATER PARTICIPATION OF ALL HEALTH DISCIPLINES IN QUALITY ASSURANCE REVIEW SYSTEMS

The committee fully recognized that consumers must have a meaningful role in the formulation and implementation of policy concerning the manner in which health-care services are delivered, and for that reason the bill does require that consumers have a substantial role in the HMO or HSO policymaking body as well as a substantial representation on the Commission on Quality Health Care Assurance. At the same time the committee fully recognized that all health disciplines had a significant role to play in the provision of health care and in the decisions made on how such care should be provided. I have felt that the consumer and all the health disciplines have an important contribution to make in the quality review procedures adopted by an HMO or an HSO.

It is my very strongly held view that we should establish a clear Federal recognition of the fact that providing health care is not the monopoly of the medical profession.

Also, while I support and approve the principle functions and responsibilities of the Commission on Quality Health-Care Assurances in the bill, I do not see that Commission as a panacea for upgrading the quality of and improving the access to the provision of health care in the country. I think it can help, but I do not think it can do the job alone.

The Commission can make a beginning of reviewing and monitoring some of the possibly thousands of review systems established around the country only if it creates an enormous Federal bureaucracy. Even then, I do not believe that it can really be counted on to provide effective quality care assurance in the majority of systems for many, many years.

Thus, for me, the best method of attempting to provide for responsive and effective functioning of quality assurance review systems at the local level would be to require the Commission to establish criteria with respect to the representative nature of the decisionmaking membership of those systems, and to take into account in establishing such criteria the desirability of providing representation on such systems of consumers and health-care disciplines other than physicians.

Although my amendment does not require explicitly that the national Commission prescribe criteria for the composition of the local review systems, I would hope the Commission could elect to do so.

I was pleased that the amendment I offered to this effect in committee was accepted and that such consumer and multidisciplinary participation will be fostered as a result. I believe that quality assurance systems—the local review mechanism—can be more consistently effective in achieving correction of the deficiencies discovered if they have consumer representation and participation of other health disciplines rather than being composed solely of physicians.

The amendment which I offered extended the committee's emphasis on the principle of the multidisciplinary approach and strong consumer participation on the health-care system by citing as a duty of the Commission on Quality Health Care Assurance the setting forth requirements for and to subsequently monitor quality assurance systems for health maintenance, supplemental health maintenance, and health service organizations, and other providers of health care. These quality assurance systems would be designed not only to improve and assess the quality of health care, evaluate the provision of health care, concentrate on illnesses having a high incidence in the population which are particularly influenced by medical treatment, but in addition improve as well as assess the accessibility, availability, and acceptability to consumers of the health care provided, and to develop procedures for the systems to make their recommendations known to the membership through the policymaking body of the organization. In the establishment of the quality care assurance system, the committee bill suggests that such systems be designed, where feasible, to include consumers as well as members of the several health care disciplines—such as dentists, nurses, and health administrators—in their membership.

I strongly feel that there is a need for the quality assurance system to direct its inquiries to the overall provision of health care and not to limit such inquiries to the quality of medical techniques or procedures utilized. The provision of comprehensive health care at a level acceptable to the patient must also take into consideration nonmedical factors such as location, ambience, and accessibility of service, among others.

These factors frequently are foremost in determining the patient's utilization of services and will bear a direct relationship to his full utilization of comprehensive preventive services.

In these specific areas, the consumer as well as other health care personnel such as the nurse and the social worker, for instance, can make substantial contributions to evaluation of the responsiveness of the organization to the patient's needs. The amendment clarifies that the Commission is expected to encourage emphasis on these factors and on the inclusion of representatives of consumers as well as of the various health disciplines in quality health care assurance systems.

INCREASED EMPHASIS ON THE PARTICIPATION OF ALL HEALTH DISCIPLINES IN MANAGEMENT OF HMO'S AND HSO'S

Another area in which the role of all health disciplines was strengthened was in the definition of the term "medical group" which was expanded to include not only physicians and dentists, but also such other health professionals as are necessary to provide comprehensive health services. I suggested this redefinition to assure that all health disciplines will have an opportunity to participate in the management of an HMO or HSO.

I am delighted with the emphasis placed in the bill on the need for the development of new types of professionals such as the nurse practitioner specialists, and new types of paraprofessionals, and feel that the provisions encouraging the use of team training in all education programs, including continuing education programs will substantially hasten this development. I was gratified to participate in drafting these provisions.

RECIPROCITY OF SERVICES BETWEEN HMO'S AND HSO'S

When an individual enrolls in an HMO or an HSO, he should be entitled to comprehensive preventive care. I believe this entitlement should exist even when he is outside of the area of his home HMO or HSO. For that reason, I am delighted that the committee accepted language I offered which would reinforce this entitlement and make such services available on a reimbursable basis for short-term health care services to enrollees temporarily outside of their home based HMO or HSO.

GREATER SPECIFICITY AS TO PREVENTIVE HEALTH SERVICES

When S. 3327 was introduced, as a cosponsor, I mentioned that I would seek to amend the term preventive health services to clarify that voluntary family planning services, counseling, and infertility services as well as nutrition counseling and education are included as basic preventive health services. I believe that the bill as reported and the committee report reflect this view, and again am pleased at the cooperative spirit with which my suggestions were accepted.

FULL UTILIZATION OF THE CLINICAL PHARMACIST IN THE HMO AND HSO

The effect of adverse drug reactions on the recovery of the patient, and the possibility of term injury or disability, are extremely serious considerations in the provision of health. Recent surveys have indicated that the incidence of adverse drug reactions is substantial. It is estimated by initial studies that from 3 to 6 percent of hospital admissions are due to adverse drug reactions, and that a minimum of 15 to 18 percent of patients, hospitalwide, suffer an adverse reaction subsequent to their admission. On the assumption that these adverse reactions on the average double the patient's hospital stay, the costs involved are overwhelming. In 1970, there were 478 million hospital days recorded in the United States; one-seventh of this amounts to approximately 70 million patient days, and assuming a room charge of $85 per day, works out to around $6 billion in direct cost. About 80 percent of adverse drug reactions are preventable. Thus 80 percent of this estimated cost—or $4.8 billion—could have been saved, had a system been in operation for insuring a rational drug therapy for each of the patients.

Hopefully, these incidents can be reduced in HMO's by the requirement in S. 3327, resulting from an amendment I offered, that a clinical pharmacist survey, evaluate, and review patterns of patient drug utilization, including drug regimens and therapies, and maintain a drug use profile for each enrollee of an HMO.

With the increasing number of new medications and their growing complexity, potential drug use side effects and interactions have become a matter of substantial concern to the medical and patient communities. Making available to the staff of the HMO the services of a clinical pharmacist, specially trained in all the nuances of drug use should assist in minimizing medication errors and preventable adverse drug reactions and interactions.

In addition, the clinical pharmacist can play a major role in the dissemination of important drug use and abuse information, both to the HMO staff and to the enrollees, and play an active role in the health education programs of the HMO. Certainly, the clinical pharmacist in each HMO should oversee and control the quality of drug products utilized by enrollees of the HMO and participate in comparative studies of use and abuse records with other HMO's and other health care facilities.

ELIGIBILITY OF MEDICAL FOUNDATION

An issue which was a matter of much concern to the members of the committee was the extent to which medical foundations should be entitled to Federal support under the provisions of S. 3327.

I am well aware of the outstanding contributions the medical foundations have made to the provision of quality medical care particularly in California, and I had been hopeful that some means could be found to encourage the development of similar organizations dedicated to finding new methods of providing comprehensive quality health care economically and efficiently to communities.

Senator DOMINICK'S amendment offered a means of achieving this purpose, however I believe it contained language which would not have provided sufficient assurances that the foundations would function within the concept of a health maintenance organization as enunciated in S. 3327. I joined in attempts by members of the committee to find a means of making this amendment philosophically acceptable, and at the same time not prohibit the participation of the foundations in the development of health maintenance organizations. Unfortunately this proved to be an impossible task.

I find this very regrettable and will continue to try to find a means whereby it can be achieved.

I would like to point out that the committee bill includes language to provide grants and loans to a "supplemental health maintenance organization" which is defined as a "public or private organization" meeting certain requirements as to composition of enrollees, and comprehensiveness of services, among other requirements, with such loans and grants to be available when there are insufficient qualified eligible applicants qualifying as a health maintenance organization.

CONCLUSION

Mr. President, the bill which the committee has reported is a product of much study by the members of the committee. The bill we developed is an excellent one and one which I believe can lead to a vast improvement in the ability of the Nation's medical communities to respond to the needs of its citizens.

I would like at this time to express by admiration for the very effective staff work provided the members of the committee by Phil Caper, Jay Cutler and Leroy Goldman. Their ability to provide needed facts, statistics and analysis was invaluable in the development of this legislation.

I urge the full support of the Senate for this bill.

THE CONSUMER AND PREPAID HEALTH CARE

Mr. MOSS. Mr. President, I am pleased to give my support to S. 3327, the health maintenance organization bill. This proposal builds on the best innovation presently used in the medical professions. It is a refreshing break from the past and allows us to look forward to days of improved public health and increasingly high quality health-care service.

There are several deficiencies in our Nation's health-care delivery system, and as a result, we are paying very high prices for the services we receive. I believe that the HMO concept will help reduce these rising costs.

INNOVATIVE HEALTH CARE

A health maintenance organization is a facility that provides comprehensive health care to an individual who subscribes voluntarily and pays a fixed premium in advance. This premium, however, is unrelated to the number of visits a subscriber makes or the number of times he utilizes the covered services. Under this program, the individual would know exactly what services would be provided through his premium payment before he went to the hospital or HMO facility.

By paying a fixed premium in advance, the individual is not subject to the ups and downs of the fee-for-service treatment he has received to date. Instead, the doctor is rewarded not for the number of visits that he receives, but for how healthy patients stay. This is a deliberate step toward preventive medicine.

All of the patients' health problems are treated in one location. This means that he will no longer have to visit one doctor in one section of town and be referred to another doctor on the other side of town, who may in turn send the patient to a specialist in still another area. A broad group of doctors with different specialties will be in one location to meet this problem. In addition, the patient's medical records will be in the same central locations so that doctors treating him may refer to the full and complete records immediately without having to wait for this information to be sent by mail, causing 2 or 3 days' delay.

The costs and premiums paid by the consumer of health care will be less than before because doctors will be able to share expensive medical equipment. High quality service will be possible because doctors may be able to confer with one another on specific cases and also because each doctor must meet certain high quality service requirements that satisfy his peers in his profession.

In general, the health maintenance organization created by this bill will qualify for Federal grants and/or loans. To qualify for this aid, prospective HMO's must measure up to minimum standards and provide comprehensive health care specifically to the individual who pays a fixed premium in advance. In those areas where it would be impractical to construct medical centers which render comprehensive service, health service organizations would be established as intermediary steps between the patient and the health maintenance organization.

THE PATIENT AS A CONSUMER

I am particularly pleased with the philosophy of this bill which allows consumers to have a voice in the affairs of the HMO's. According to this bill, the consumer may influence HMO policy in two ways. First, there will be consumer representation on the policymaking board of the HMO. The bill requires that consumers constitute one-third of the body which establishes or recommends policy.

Second, the bill also makes provisions for consumer grievances to be heard and

resolved. Such a procedure is sound and reasonable and should allow for steady improvement in medical service through the mutual effort of the doctor and his patients.

I would like to add, Mr. President, that though this generally is a new concept in medical service, it has been tried and tested and results have been more than satisfactory. The Group Health Cooperative of Puget Sound in the State of Washington is perhaps the best example. This HMO type organization was established in 1944 by Seattle residents who were disenchanted with both the cost and organization of fee-for-service medicine. They decided to organize a group practice clinic in which control would rest with members of the cooperative rather than with the doctors.

On the 11-man board of directors now heading this cooperative, only the director is appointed. In addition, board members are elected to fill the positions on the local district board of directors.

The results of this prepaid health cooperative have been favorable. Medical costs have been held below the national average; the same is true for the number of days of hospitalization per year for each co-op member. These doctors and co-op members are to be commended for developing some of the most outstanding hospitals and medical centers to be found, and for devoting special attention to preventive medicine.

This is the purpose of the health maintenance organization bill: To provide the consumer the many benefits of our highly developed medical knowledge that are available but have been, because of high cost, or distant location at least partially inaccessible.

RURAL HEALTH CARE

I am also pleased to see that in this legislation the previously under-privileged medical areas of the country have become the priority areas of this bill. Special provisions have been made to reach the inner-city and rural citizens who have suffered from inadequate medical care. Medical service extended to these areas is provided by facilities entitled Health Service Organizations. These facilities will provide medical care to those who, because of the impracticality of building full-scale HMO's, may still receive needed medical care. In my own State of Utah, for example, medical care is needed in many areas. There are towns in Utah with no physician and none within a radius of 75 miles. Ambulatory care systems and increased communications between highly populated urban area medical facilities and rural area organizations will serve to remedy these dire conditions.

INSURING QUALITY CARE

The prepaid health plan is one exciting alternative to the fee-for-service type of medical practice. However, even though there are deficiencies in this Nation's health-care delivery system and even though medical costs are rising, the prepaid health plan would be an ineffective alternative if it did not provide adequately high quality medical service. Therefore, to insure high standards in these areas, a Commission on Quality Health Care Assurance is necessary. This commission would encourage all national systems to provide the kind of care that we all want, in all HMO facilities.

In this light, I think it is also advisable that physicians' principal professional activity be in group medical service. Ample testimony was given in the Senate hearings on this bill to sustain this provision. Difficulties are engendered by the mixture of fee-for-service and salaried practices. This situation seems to provide the incentive for health professionals to increase the proportion of time devoted to fee-for-service practice so as to maximize their income at the expense of their prepaid patients. Many health cooperatives have demonstrated the desirability of hiring full-time health professionals who devote the majority of their time to their prepaid patients.

Once again, Mr. President, let me state my support for S. 3327, as it was reported by the committee. I feel confident that medical services can be provided most beneficially when the consumer has a voice in the type of services that will be rendered. In other words, the consumer must be given a voice in the administration of the organization if the idea prompting this legislation is to be realized.

Furthermore, to insure quality medical service and high priority attention for the members of this prepaid health plan, the participating physician should dedicate the majority of his professional practice time, his principal professional activity, to the care of the members of the HMO's. In cases where individual practitioners join together to form an HMO, a prearranged salary or drawing account plan for distribution of financial remuneration should be established and maintained to deter and discourage physicians from engaging in any substantial fee-for-service practice.

This bill does not threaten the respected role of the family physician and individual practice. It simply provides a clear alternative where one is needed. I support the committee bill.

Mr. KENNEDY. Mr. President, if the Senator will yield, I thank the Senator from Utah for his comments. He is recognized in this body as one of the great protectors of consumer interests. And I know that he has been extremely interested in the development of all of this legislation. He has talked to me frequently about it. He has touched upon a number of different points which I think are of extreme importance in this bill and on what we try to achieve for the role of the consumer in HMO's and HSO's as well as the Commission on Quality Health Care Assurance. What we have tried to do is assure that consumers know about this legislation. I think that in the entire health care delivery consumers have an important role to play. I know that this has been the aim and desire of the Senator from Utah.

I would like to express my appreciation for his comments and for his continued interest in providing quality health care to urban America as well as to rural areas.

Mr. MOSS. I thank the Senator from Massachusetts. I think it would be an advantageous procedure to provide each member of the HMO health care plan with a disclosure handbook at the time of enrollment. This handbook would provide information concerning the extent of the member's health coverage.

I have in my hand a copy of the Kaiser Handbook that is distributed to the members of that health community. It is inserted here on page 1284 of the committee hearings. Here we can read a detailed plan of how to use the Kaiser health plan. It informs the members of such things as how to choose a physician, how to make appointments, and other helpful suggestions.

On page 1307, the handbook describes the types of other health care not provided by the minimal membership plan and lists the services for which additional charges will be made. Such information should be available for each HMO participant. I suggest that the HMO personnel investigate this idea and develop some similar brochure to inform the health plan members of the facilities and services available to him.

Mr. KENNEDY. Mr. President, the suggestion of the Senator is a valid and worthy one. The legislation requires that such information be available to all of those who take advantage of the services of HSO's as well as HMO's. That is a requirement under the Commission on Quality Health Care Assurance title 7 of the bill. The Senator is exactly right about the value of such a booklet to those who participate in the Kaiser program and also the Group Health Cooperative of Puget Sound program as well as others of this type which are available.

I agree with the Senator on this point. I share in his feelings that such information should be required and will be of great benefit to the consumers.

Mr. MOSS. Mr. President, I thank the Senator. Does the Senator also agree that it is practical and desirable for the members of an HMO, the consumers, to have a voice in the management, as it were, of the health care facility, and do that without infringing on the professional expertise or prerogatives of the health professionals who work there and provide medical services to those who receive care?

Mr. KENNEDY. I do. As initially introduced, the HMO legislation gave preference to consumer dominated HMO's. It was changed in the committee to provide that one-third of the policymaking group would be consumers.

I was discouraged that we did not continue to give preference to those HMO's and HSO's which are consumer dominated. However, it was the judgment of the committee, consumers should have a substantial voice, but not absolute preference, so we eliminated it. Where consumers have a voice the people have been better served.

For instance, in Charlestown, Mass., they know more about the need for a dental program for their people because they are more familiar with their water supply. In my State and in some other States that have fluoridation they do not have the dental needs other areas may have. The parents know if they have a drug problem or if they have an alcoholism problem in the community. This input can be helpful in the total approach. This kind of activity by con-

sumers should be decided at the local level rather than at the national level. That is the kind of contribution the people who benefit from the program bring to it. So we have a strong voice for the consumer. I wish it were stronger. I hope we can keep a strong consumer voice we have after conference with the House.

Mr. MOSS. Does the Senator agree if the consumers are involved and, therefore, feel the institution is theirs, in effect, they would be much more likely to use it, rather than to have an alienated feeling, and also the concern about going to see the doctor that keeps so many people away until their ailment is so severe it requires much more drastic care when they have delayed in consultation on medical problems.

Mr. KENNEDY. The Senator is correct.

Probably the most efficient, and I believe the more effective health delivery system in this country is the Puget Sound program in Seattle, Wash. That is completely consumer run and completely consumer dominated. They have extreme power in hiring and firing of doctors and a whole range of services. Also it provides a great range of services at very reasonable costs.

There are other excellent programs such as the Harvard community health plan program. I agree with the Senator. We have tried to bring that spirit to this legislation. I hope we will be able to retain it with the House.

Mr. MOSS. I wish to pose one final question. I understand setting up this type health care is really a voluntary matter so far as a citizen wishing to join and to pay a premium is concerned, and also for the medical profession as to whether or not they want to participate in this kind of program. In other words, would it be possible for private practice to go on in the kind of patient-health care we have now and, therefore, can a person, if he wishes, remain completely out?

Mr. KENNEDY. The Senator has correctly stated the situation. There is nothing mandatory or compulsory in this legislation. The doctor is under no requirement to join in HMO or HSO, and the patient is under no requirement to subscribe to it.

However, this has proved itself to some eight million Americans and when the consumer is able to share the range of services for himself and his family in HMO and HSO, compared to the kind of scattered approach under fee for service, and I dare say it is more economical, their free choice will be to go into an HMO or HSO or not.

Mr. MOSS. I thank the Senator. I thank the members of the committee for reporting the bill. I think it is a great step forward in the delivery of medical health care services to consumers of this country, and I do support the bill.

Mr. LONG. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 90, between lines 7 and 8, insert the following:

SEC. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

Mr. LONG. Mr. President, those of us who serve on the Committee on Finance have considered in the brief time we had available to us some of the problems raised by the pending bill. The Finance Committee, by a voice vote, agreed that this amendment should be offered.

What is involved here is an existing medicaid program and an existing medicare program. Those are major programs. They exist under laws enacted by Congress, and laws which we undoubtedly will amend this year. Regulations flow from those laws which, for the most part, we would not want to change. There are some aspects of the regulations which should be changed; some require a change of law where, because of trial and error, we are convinced they should be modified.

Those of us who serve on the Committee on Finance have been working on this matter for a long time to assure quality health care to all the aged and to the poor, under the medicare and medicaid programs, and to try to assure that there would be proper and publicly accountable peer review so that both quality and quantity of services would be monitored.

I have before me the proposed text, in a confidential committee print, of H.R. 1, which we expect to report to the Senate at the end of this week. There are one or two major amendments to be considered, or at least areas to be reconsidered where we think we can improve the bill in a substantial way. But for the most part the detail work has been. This is the product of more than 3 years' hard work in the Committee on Finance and the Ways and Means Committee.

One might ask, "Why did it take so long?" The problem was that the House sent us a bill in the previous Congress. We in the Senate studied that bill and in the closing days of Congress we eliminated the most controversial feature and passed the parts we thought were most meritorious and the least controversial. They included the best we could recommend at that time for improvement of the medicaid and medicare program.

Unfortunately, on that occasion the House, speaking through the senior members of the Ways and Means Committee, declined to go to conference with us because they wanted to use what we had passed as leverage, one might say, to press for their version of a family assistance plan. The result was that they sent back to us a bill last year which incorporated their thoughts as well as many provisions originally generated in the Committee on Finance.

The House Ways and Means Committee worked in this area and in the welfare area in executive sessions for approximately 4 months. The Senate Finance Committee conducted hearings. We have worked in executive sessions on this measure for more than 4 months. We have approximately 350 pages of legislative language in H.R. 1 dealing with medicaid and medicare programs, designed to improve the operation of those programs, to assure quality care, and to seek to control the costs of the programs—that is, reduce inefficiency and reduce unnecessary costs.

All of this has been in close cooperation with the Department of Health, Education, and Welfare, and the administration, and, for that matter, anybody else available to us to advise in this area.

We do not wish to see this proposal by the Senate Committee on Labor and Public Welfare confuse the law with regard to requirements under medicaid and medicare. In a great number of cases, the bill that is proposed by the Committee on Labor and Public Welfare would leave standard-setting to the discretion of a commission. For example—I am looking at page 43 of the report—it says:

Title IV of S. 3327 directs the Commission on Quality Health Care Assurance to put heavy emphasis on the development of criteria for internal quality assurances systems.

We in the Finance Committee have undertaken to put on the statute books legislation, based on experience achieved under medicaid and medicare, designed to specifically spell out how those programs should be administered. We would not want this Commission to confuse the law and to upset the practices that have become established. We would not want this new Commission or Board seeking to improve quality control, so confuse the law that it would impede the effective implementation of the medicare or medicaid programs.

I quote further:

The Committee has intentionally left the exact nature of the quality assurance system to be determined through the deliberations and experience of the Commission on Quality Health Care Assurance.

Well, Mr. President, we think we are just far beyond that point in the medicare and medicaid programs—to where we have been able to leave a lot less to guesswork and the discretion of anybody, because we have been able to set it out fairly precisely in a statute. It is far more desirable if one can go back to a statute to explain what shall be done and what shall not be done, rather than leave it up to the discretion of some board yet to be created, not knowing what they might decide and what they might not decide.

I read on:

In meeting the requirements of the Commission, the Committee wishes emphasis to be placed upon the development of local mechanisms for monitoring and improving the quality of health care services, both in and out of health maintenance organizations. For that reason, the Commission will have great flexibility in defining criteria for local quality health care assurance systems.

In all those areas of concern we believe we have found a great many answers, some of them by being right in the first instance, and others through trial and error. Therefore, we think it would be

most unfortunate, and certainly completely unplanned, if this legislation were to confuse and confound those who were trying to administer a medical care program under legislation which had its origin in the taxwriting committees.

For that reason, I believe this amendment is necessary. The amendment was offered on behalf of myself and the Senator from Utah (Mr. BENNETT). We joined as cosponsors of this amendment because it was our feeling that this should be a committee position, and it is the formal position of the Finance Committee.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG. Yes; I am happy to yield to the Senator from Utah.

Mr. BENNETT. Mr. President, I rise to express my appreciation to the Senator from Louisiana (Mr. LONG) and the committee for the consideration which they have given to the problem of protecting the existing mechanisms and the plans that have been so carefully worked out to make them more effective in the service of the patients, of the recipients and beneficiaries of the medicaid and the medicare programs. So I am pleased to join the Senator from Louisiana (Mr. LONG), chairman of the Finance Committee, in sponsoring this amendment, which, as he has said, has had the consideration of the entire committee and, in a sense, the Senator from Louisiana and I are speaking for all the members of the Finance Committee.

We feel this amendment is necessary to avoid not only duplication and conflict, but possible jurisdictional problems, and I am happy to be able to report to the Senate that the amendment has the support of the President and the Department of Health, Education, and Welfare. I hope the sponsors of the bill will accept the amendment.

Mr. KENNEDY. Mr. President, I would like to ask the proponent of the amendment, the Senator from Louisiana to enter into a dialog, just so the record is clear, because I am hopeful we can accept the amendment, and believe we can, if I understand the amendment correctly.

As I understand it, the Senator wants his amendment to apply to services offered by health delivery systems under social security—medicare and medicaid.

Mr. LONG. Social security and public welfare. Yes, I specifically have that in mind. We have two existing programs. They are ongoing programs. They have had a lot of experience, some good, and some bad, but those administering the program, where they have had the power to change regulations to correct something that appeared to be in error, and where they have found a better way of doing something, have done so.

We have, as I have said, proposed over 300 pages of medicare and medicaid changes in the bill which is right here before me, where we feel the law can be amended, to help more effectively administer the programs.

We also are interested in a potential national health insurance program under the Social Security Act. That is something we would expect to recommend to the Senate sometime in the next Congress.

Mr. KENNEDY. So this applies with respect to the Social Security Act, as I understand?

Mr. LONG. Yes.

Mr. KENNEDY. Further, in instances where, a health service system offers services reimbursed under the Social Security Act, and also falls under the provisions of this HMO, legislation is it the understanding of the Senator from Louisiana that the requirements of both acts will apply equally, that neither will supersede the other, but that they both will be respected?

Mr. LONG. Well, we would hope that we would not have overlapping, and particularly we would hope that we would not have in the same clinic two conflicting sets of regulations.

In other words, we would think it would be important that one know what the law is, what law he is trying to administer, and that where there is an existing operation which apparently is going about the way experience would dictate it should go, we would hope it would not be confused by having a completely different set of laws and regulations where there might be a possibility of a conflict, and where a person might not know his duties and responsibilities.

Mr. KENNEDY. I think of the instance, for example, where we have the development of a health maintenance organization meeting this legislation's criteria to insure quality control, which has a few subscribers who are covered by medicare. It seems to me what we are looking for is to make the laws complement each other. I would think that is your intention and it is certainly acceptable to me.

Mr. LONG. I would hope so, and I would not seek to change a situation that would cause the legislation suggested by the Senator to provide another answer, where the law which we have on the books and which we are seeking to amend in this session, is solid. In other words, where we do not provide an answer I would think it would be appropriate that one would look to the section the Senator is recommending to find it; but where the answer is there, it would seem to us that that should prevail, unless we should decide to change that language.

We just do not want to have two conflicting sets of regulations, which provide two answers that are not the same to the same problem, particularly under social security programs.

In other words, it is all right with us, for the purpose of this amendment, if we regard it as affecting programs which are not social security programs, and under which medicare and medicaid are not providing an answer, for the Senator's legislation to provide one.

Mr. KENNEDY. Then I see no objection to the amendment. I might say at this point that I am generally familiar with the provisions which have been introduced in the past by the Senator from Utah with regard to PSRO's. Of course, we are not talking about that particular question now, but there is nothing in this legislation which is inconsistent with the development on approval similar to that. So I see no objection to the amendment, Mr. President, and I would urge its adoption with that understanding. All this amendment proposes to do is to make clear that nothing in the bill invalidates the provisions of the Social Security Act and vice versa.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG. Mr. President, it has been suggested by the Senator from New York that it might clarify the language to change one word, and I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 90, between lines 7 and 8, insert the following:

Sec. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services under (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

Mr. JAVITS. Mr. President, I thank the Senator from Louisiana. Just to be sure that the amendment applied to programs under the Social Security Act, I suggested the modification. He has now made that very clear, and I join with the Senator from Massachusetts in urging that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as modified.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 145, insert between lines 13 and 14 the following:

"(14) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;".

On page 145, line 14, strike "(14)" and insert in lieu thereof "(15)" and on line 17 strike "(15)" and insert in lieu thereof "(16)".

Mr. TUNNEY. Mr. President, this amendment would add an additional function to the work of the Commission on Quality Health Care Services. It would instruct the Commission to analyze the need for standardization of medical records and to facilitate the development of a system of standard medical reference mechanisms.

An effective system for maintaining medical records is essential to quality health care. It has become clear to both medical professionals and laymen that

the existing health record system in the United States is in very sad disarray. Too frequently, a physician on treating a patient with whom he is not familiar must reconstruct the medical records, based almost solely on what the patient's memory is of his condition, because of the fact that many people move from one location to another, one part of the country to another. It is clear that in emergency situations the lack of information about a patient's previous illness or treatment or his sensitivity to a particular drug may have more unfortunate—at times even fatal—consequences.

Furthermore, even when the patient's records are available to the physician, they are far too often fragmented and too incomplete to be of much use to him.

In the past, inadequacies in medical records were partially compensated for by the fact that the attending physician was a general practitioner, who was familiar with the patient, having treated him over an extended period of time. With the continuing decline in the number of general practitioners, however, it is even more likely today that the attending physician will be a specialist who is unfamiliar with the patient's total health picture.

The problem is further complicated by the increased mobility of the average citizen that I have referred to previously. The average American moves once every 7 years and one-fifth of the general population moves annually.

Under these conditions, the medical record becomes increasingly important, because it may provide the only framework of continuity or comprehensiveness of care. If there is no source to which a physician may turn for an overall picture of the patient's medical history, effective treatment becomes much more difficult and the patient's recovery needlessly delayed.

The 1967 report of the National Advisory Commission on Health Manpower included the following statement:

> The panel believes that there is an urgent need for an improved capability to provide medical records for the patient.

The report went on to emphasize the development of data bank systems through which medical records could be retrieved even though a patient had moved frequently and been treated by a variety of physicians.

Mr. President, there are two principal benefits to the average citizen from this amendment. First, medical personnel could provide better treatment to him through better and more complete knowledge of his medical history by means of retrieval systems designed as a result of this amendment.

Second, and perhaps more important, in emergency situations such as auto accidents, there would be less chance of erroneous treatment.

A final point, which I should mention is the question of privacy. By placing the task of developing this system within the Commission on Quality Health Care Assurance, adequate safeguards could be developed to assure individual privacy and confidentiality of medical information and limits on access to medical records. By assigning this task to the Commission, rather than to the Health Care Institute, for example, the development of safeguards against unauthorized use of medical records could be assured.

Mr. President, I am confident that this amendment will have a most constructive result. I have discussed it with numerous physicians and academic personnel and I believe it fully meets the need which they have expressed to me for the development of such a system. I believe it is not in conflict with any of the provisions of this bill, in fact it is complementary. I urge the Senate to adopt it.

(At this point Mr. JAVITS assumed the chair.)

Mr. KENNEDY. I thank the Senator from California.

I will be glad to urge the Senate to consider this amendment favorably.

This amendment is completely consistent with the rest of title IV, the Commission on Quality Health Care Assurance. As a matter of fact, it is spelled out in very similar language in title V, page 117, line 4, where we talk about the development of uniform accounting practices, financial reporting, and uniform health records.

So this amendment is completely consistent—with the thrust and purpose of the proposed legislation. It spells out in greater detail than we did in the proposed legislation the importance of standardizing recordkeeping, which in turn will help the Quality Commission to identify problems of over- and underutilization in different parts of the country. It will also help the Commission to track successful treatment modalities in different parts of the country.

So I think that for a wide variety of reasons this amendment will be useful and helpful and will strengthen the proposed legislation, and I am glad to accept it.

Mr. TUNNEY. I thank the distinguished chairman.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BEALL. I do not object to the idea behind the amendment. I point out that the subject matter is already covered in the bill, in title V, page 177. It cites as a responsibility of the National Institute of Health Care Delivery "the development of uniform accounting practices, financial reporting, and uniform health records."

So it is a good idea, and one that the committee has already considered and has already incorporated in the proposed legislation. I have pride in it, because it is an amendment I offered to the bill, and it was accepted.

Mr. KENNEDY. From where is the Senator reading?

Mr. BEALL. From the bill, page 177.

Mr. KENNEDY. What subsection?

Mr. BEALL. Line 4, section (16).

Mr. TUNNEY. I think that the Senator's amendment, referring to uniform health records, was a good one. But the problem which my amendment is addressed to is the development of a system which allows for quick retrieval of medical records throughout the country. For example, a doctor treating a man who is injured in an auto accident while visiting in California could gain quick information about the medical history of the victim if his health records were contained in a system designed to allow swift location and retrieval. The most obvious example would be through the use of electronic data processing methods in which an individual's records were coded by a number assigned only to him.

My purpose in offering the amendment is to assure that we develop a system whereby we would have not only a standardization of medical records but also would have the ability to retrieve the information contained in those records in any part of the country.

One possible example would be to use a number system analogous to the social security number so that, simply by employing that number, a doctor in Detroit could obtain the medical history of an accident victim who might live in another State.

My concern, Mr. President, is that we face this problem directly, by making specific reference to it in the legislation. The language referred to by the Senator from Maryland does not do so, nor does it suggest anything beyond an attempt to allow assessments of cost and delivery questions through standardizing records and accounting methods. But I am glad to hear that he agrees with me on the need for the program I have described.

Similarly, although there is other language in the bill which speaks of the use of advanced technology, there is nothing which ties the two concepts together to assure that the retrieval system I am describing will be developed. I believe we should make this a matter of high priority because of the potential it has to reduce the consequences of emergency cases. While I am confident that the mandate contained in the bill that technology be applied in health care delivery could be read to allow the development of such a system, there is nothing in the bill which requires or encourages it.

In fact, because of the great problem of assuring privacy and confidentiality there has been considerably less attention focused on this problem than is needed. It was this factor which caused the deans of two prominent medical schools in California to suggest this amendment to me. I might add, Mr. President, that both had read this bill and the report and felt that there was not adequate provision in it to encourage the study required to develop such a system.

Mr. BEALL. I agree that this is a good idea. If the Senator will refer to the preceding page, page 176, subsection (12), he will see that it refers to the "application of all forms of technology, including computers and other electronic devices, in health care delivery."

I think all these systems should be used, and I am happy that the Senator from California agrees. I have no objection to his amendment. I am sure it can be incorporated into the proposed legislation, because the subject matter, as I have already said, is covered in the bill as reported by the committee.

Mr. KENNEDY. Mr. President, I urge the Senate to adopt the amendment.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BEALL). All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 106, strike lines 12 through 24, and in lieu thereof, insert the following:

"SEC. 1108. The Secretary may make grants and loans to community health maintenance organizations (as defined in section 1109) from funds appropriated pursuant to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 25 per centum of the amounts appropriated under such part. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitations as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1101)."

On page 107, strike lines 3 through 5, and in lieu thereof, insert the following:

"(1) The term 'community health maintenance organization' means a public or private organization operating in a metropolitan area which—"

On page 122, line 24, before the word, "and", insert "community health maintenance organizations".

On page 123, line 1, strike out the word, "either", and insert in lieu thereof "such an organization"; on line 21, before the word "or", insert "organizations, community health maintenance organizations,".

On page 137, line 11, strike the word, "No", and in lieu thereof insert, "Except as provided in section 1108, no".

Throughout the bill, wherever the word, "supplemental", modifies the term, "health maintenance organization", strike the word, "supplemental", and in lieu thereof insert the word, "community".

Mr. DOMINICK. Mr. President, copies of this amendment have been furnished to the Senator from New York and the Senator from Massachusetts, as I understand.

Title I authorizes assistance for development of two kinds of organizations which provide comprehensive health care on a prepaid basis—"health maintenance organizations" and "supplemental health maintenance organizations." The definition of "health maintenance organization" is restrictive. Organizations meeting that definition clearly could not survive without the large Federal subsidities—$1.825 billion over the first 3 years—authorized in title III. The definition of "supplemental health maintenance organization" is flexible. Organizations meeting that definition could be economically viable without continuing Federal subsidies. Little, if any, funds would be available under title I for assistance to "supplemental health maintenance organizations." This amendment would assure that 25 percent of the funds appropriated under title I would be available for assistance to "supplemental health maintenance organizations."

Part A of title I authorizes $1.025 billion over 3 years for grants and loans for development of "health maintenance organizations." Under the definition of "health maintenance organization" (sec. 1101(1)) only closed panel group practice-type organizations would qualify for assistance. Each such organization would be required to provide a long list of services without regard to the needs of its enrollees (sec. 1101(2)):

Inpatient and outpatient hospital services;

Home health services;

Diagnostic laboratory, and diagnostic and therapeutic radiologic services;

Preventive health—including but not limited to voluntary family planning, infertility services, and preventive dental care for children—and early disease detection services;

Emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

Provision of or payment for prescription drugs—with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee;

Medical social services;

Vision care—except for eyeglasses which shall be optional—as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

Physical medicine and rehabilitative services—including physical therapy;

Mental health services utilizing existing community mental health centers on a priority basis;

Preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

Such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

Part B of title I authorizes grants and loans for development of "supplemental health maintenance organizations." Under the definition of "supplemental health maintenance organization" (Sec. 1109), individual practice type organizations as well as closed panel group practice organizations would qualify for assistance. Rather than mandating a complete list of specific services to be provided, the definition would require only that each such organization provide to its enrollees:

All those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive services.

But part B contains no separate authorization of appropriations for assistance to "supplemental health maintenance organizations." Such organizations would be eligible only for funds left over at the end of each fiscal year after all applications for development of "health maintenance organizations" under part A of title I had been funded. It is unlikely that any significant amount of funds would be available under this provision.

This amendment would do two things. First, it would earmark 25 percent of the funds appropriated under part A for applications filed under part B. This would insure that some funds would be available every year for assistance to HMO's meeting the more flexible definition in part B. Second, it would change the title, "Supplemental health maintenance organizations." to "Community health maintenance organizations." This would remove the implication that HMO's meeting the more flexible definition in part B are inferior.

The overwhelming weight of testimony in the hearing record was that in order to stimulate competition and innovation in developing improved methods of health care delivery, a variety of organizations—including those where physicians practice in individual rather than group settings—should be eligible for assistance. Among the witnesses testifying to that effect were representatives of the Department of Health, Education, and Welfare, the Association of American Medical Colleges, the American Association of Foundations for Medical Care, the American Association of Medical Clinics, the American Hospital Association, the American Medical Association, Blue Cross-Blue Shield, the Group Health Association of America—representing the major prepaid group practices—the American Rehabilitation Foundation, the Kaiser-Permanente Foundation—the prototype for the closed panel group practice model—the National Medical Association, and the Student American Medical Association.

These same witnesses testified that to require each HMO to provide a broad range of specific services would inhibit the development of HMO's. They recommended that the benefit package should be flexibly defined to require only essential minimum services, and beyond that, whatever services were required by the enrolled population, and which could be furnished without making premium costs uncompetitive with other providers. The hearing record indicates that few, if any, existing prepaid group practices—including the prototype for the HMO concept, Kaiser Permanente—provide the range of services which would be mandated in this bill. Representatives of the American Association of Medical Clinics and Group Health Association of America, who are involved in HMO type medical care delivery, testified strongly that the range of services mandated in S. 3327 was too broad, and would stifle HMO development by placing them at a severe disadvantage in competing with other types of providers, including the insur-

ance industry. They felt that what services are provided beyond certain minimum services should be dictated by the ability of the HMO to provide them, and the ability of the enrollees to pay for them. This view was expressed by witnesses for the AFL–CIO, which represents probably the largest single group of existing and potential HMO enrollees.

Although the committee refused to modify the restrictive definition of HMO, it added the more flexible definition in part B of title I as an intended compromise. But since essentially no funding would be available for HMO's meeting this flexible definition, it is a meaningless compromise.

This amendment would not disturb the definition of HMO in part A of title I. It would merely assure some funding for HMO's meeting the more flexible definition in part B. This would increase the opportunities for innovation in developing better methods of health care delivery. Such HMO's could be developed at much lower cost than those required to meet the restrictive organizational and benefit package conditions of the part A definition. Finally, HMO's qualifying under the more flexible definition would not be dependent on the permanent operating subsidies—provided for in Section 1145—without which HMO's established under part A could not survive.

Mr. President, as I have indicated in my individual views in the committee report on S. 3327, and during the course of this debate, I feel strongly that it would be a serious mistake to authorize more than $1 billion to develop HMO's which will have virtually no chance to ever become economically viable. If we are really serious about improving our health care delivery system, we should provide assistance to develop HMO's which will be able to compete on their own without massive permanent Federal subsidies. This amendment would assure that part of this money will be used for that purpose. I hope my colleagues will support it.

I ask unanimous consent that the amendment which I have submitted and is now at the desk may be considered en bloc because it is all part of the same package.

Mr. JAVITS. Reserving the right to object, and I hope that we can work it out with the Senator, I have noted that, and I would suggest that he make his unanimous consent request apply to the title and all other incidental amendments which flow from the first. I do not know but what we may have some feeling, even if the Senator's amendment should carry respecting what he would call these health organizations, but I do not expect that we would have any problem about it, but I think it should not just go with the substantive amendment which the Senator is making. Would the Senator mind doing that?

Mr. DOMINICK. I will be happy to modify it to leave it as the supplemental health maintenance organization, if that is what the Senator means.

Mr. JAVITS. I do not want to foreclose the Senator. I just suggest in dividing the vote that we divide it between the amendment on page 106 and all the other amendments being considered en bloc, and the one on page 106. That is just a practical way to get at what may result from adoption or rejection of the one on page 106. It may still be a good idea to call it a community health maintenance organization, even if the Senator loses.

Mr. DOMINICK. If I lose the first part, I do not care a hoot about the rest of it. That is the point I am making. The first part is the key. The remainder merely substitutes the title "Community Health Maintenance Organization" for the present title, "Supplemental Health Maintenance Organization." It would have no substantive effect; it would just remove the implication that such HMO's are inferior.

Mr. JAVITS. Does the Senator mind severing the amendment as to pages 106 and 107 and all those that follow?

Mr. DOMINICK. Mr. President, I ask that all of the amendment which I have previously submitted be stricken, starting with the words "on page 107," line 1, and continuing on through the balance of the amendment, leaving only section 1108 on page 106.

The PRESIDING OFFICER (Mr. BEALL). The amendment will be so modified.

Mr. DOMINICK. Mr. President, I also ask unanimous consent that the word "community" be transferred to the "supplemental" in the first line so that section 1108 would read, "The Secretary may make grants to the community health maintenance organizations."

The PRESIDING OFFICER. The Senator may modify his amendment accordingly.

Mr. DOMINICK. I want to emphasize that this amendment would make no changes in the definitions of HMO or supplemental HMO which are presently in the bill. It would just assume that 25 percent of the funds appropriated under title I would be available for the more flexible definition. Under that definition, supplemental HMO's would be required to provide comprehensive medical services. But they would not be locked into a long list of specific services as the other definition mandates.

The supplemental health maintenance organization definition would require that each such organization provide for its enrollees "all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive services."

It would strike me that since we are trying as best we can to find improved delivery systems, it would be wise to make sure that some of the money authorized can be used for innovation, rather than to promote one narrow organizational form. This amendment would earmark up to 25 percent of the funds appropriated under title I for the Secretary, in his discretion, to use in funding supplemental HMO's. It is entirely possible that he may not want to use any, in which case the whole amount still goes to the closed panel group practice type HMO's. But he has the option.

Mr. President, I suggest the absence of a quorum.

Mr. President, I modify my own amendmet, which I have already modified twice, so that in section 1108, in the fourth line, the figure "25" be changed to "17.5 percent."

I have discussed this with the Senator from New York and with the Senator from Massachusetts. And it is my understanding that this will make available 17.5 percent of the funds appropriated under title I of this bill, to supplemental health maintenance organizations, as defined in part B of title I.

It would be agreeable with me if it is agreeable with him.

Mr. JAVITS. Mr. President, I appreciate what the Senator said. It is entirely agreeable to me, although I believe that the health maintenance organizations of a classic character described in the bill are vital to the future provision of health care for all the American people. I also believe that the supplemental health maintenance organization ought to have a chance to improve its worth and it is defined under the bill as qualified under the bill.

Therefore, I feel that the provision now being made for its having a chance to prove its worth is an appropriate one and I hope the amendment is agreed to.

Mr. KENNEDY. Mr. President, I am reluctant about this amendment which will support the status quo in health care, but we would be willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOMINICK. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Kentucky (Mr. COOPER) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 154, beginning with line 4, strike all language through line 7.

On page 154, beginning with line 14 strike all language through line 20 and substitute for (c) page 154 line 8 (b).

Mr. DOMINICK. Mr. President, I wish to make a very brief explanation of the amendment. This is something I have been concerned about and it is something that the Senator from Kentucky has been concerned about. I refer to the penalty section, section 1208, starting at page 152 of the bill. It gives the Commission, as I pointed out in my statement, a great deal of power. For example, the Commission would have the power to resolve the certification of any noncomplying provider, making it ineligible for Federal assistance. It could require

noncomplying providers to repay all Federal funds it had received. It could go into court to seek an injunction against practices it considered dangerous. It could institute criminal proceedings against providers for knowingly filing false reports.

This should be enough enforcement power. Yet the Commission also has the power to "assess" civil penalties up to $10,000 for each violation. This concerns me, primarily because there are no procedural safeguards. No hearing requirements, no protection of due process rights whatsoever. In criminal proceedings under the criminal penalty provision these rights would be protected by the courts.

I hope the manager of the bill shares our concern and will accept this amendment.

Mr. COOPER. Mr. President, I am glad to join with Senator DOMINICK in proposing the amendment to strike the section which would impose mandatory civil penalties up to $10,000.

I do not condone any mismanagement or wrongdoing. But the imposition of mandatory civil penalties on anyone, without a hearing, without trial, without due process, fundamental in our system of law, is unjust. This practice of fixing civil penalties, to be administered often arbitrarily, is growing too common in legislation being enacted. It should never be done, and should be repealed, wherever enacted in all previous legislation. It is unfair and contrary to all we have claimed as due process and fairness under our system of justice.

Mr. KENNEDY. Mr. President, again, I accept this amendment. We were trying not to have the Commission itself act on these cases, but to set off a triggering device, as has been done in other administrative agencies. We have taken that approach from other administrative agencies.

However, there are other means to assure prosecution under these provisions.

I am willing to take the amendment. I would like to hear from the Senator from New York, who is a distinguished legal craftsman, about this matter.

Mr. JAVITS. Mr. President, I agree with the Senator. I feel there is a reason for the civil penalty. Sometimes we prefer it to a criminal penalty. The criminal penalty remains respecting false statements under the amendment of Senator COOPER. I do not think it is a matter we should allow to impede the progress of the bill. Therefore, I concur with the Senator and I hope the Senate accepts the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FANNIN. Mr. President, S. 3327 undertakes an ambitious strategy to change what is presently constituted as our health-care delivery system. It is a strategy which continues and expands Federal intervention in health care.

There is much to be questioned in S. 3327, but I am more vitally concerned with the strategic choice which S. 3327 represents. This legislation raises the basic policy issue of whether the Government should visualize HMO's as being in the private competitive sector to the same extent as, for example, insurance companies and conventional fee-for-service medical groups, thus exhibiting all the diversity of sponsorship and organizational form characteristic of the American economy, or whether HMO's should be established as federally sponsored organizations subject to Government direction and regulation.

Evidently, the sponsors of this bill have chosen the latter strategy.

Evidently, the sponsors of S. 3327 strongly believe that only through a massive and expanded Federal involvement in health care will we ever succeed in controlling health costs and developing a more effective health-care delivery system.

It is evident to me that such a strategy will not solve the problems but only increase them.

What is needed, therefore, is a strategy which minimizes Federal intervention and regulation and maximizes the opportunity for self-regulation.

The cornerstone of our free enterprise system is competition where poor products, poor organization, poor leadership can be eliminated. In health care, we need a system which encourages competition to achieve the same results. Massive Federal involvement will not change appreciably the health-care delivery system nor reduce costs.

If we are to truly serve the consumer, Congress should develop a health-care system which the consumer can regulate through choice. Establishing a system in which consumers participate does not guarantee efficiency, nor change. What is needed is a system which actually permits consumers to force change through the real act of economic choice.

In essence, then, I believe in adopting a strategy which emphasizes competition in the health-care system.

Mr. MONDALE. Mr. President, I am pleased to support the Health Maintenance Organization and Resources Development Act of 1972, which I had the privilege to cosponsor. I think this may well be one of the most significant pieces of health legislation considered by the Congress in this decade. Proposed national health insurance legislation addresses itself, primarily, to the financing of health care. This legislation is addressed to the equally important problem of delivering that care to the people.

The bill should make it possible to achieve the objectives noted by the President of making a health maintenance organization available throughout the United States. Unfortunately, the legislation proposed by the administration to support that objective has been found, through extensive hearings, to fall short of the mark. This bill should give us the mechanisms to make the growth and development of health maintenance organizations a reality.

I am especially pleased to be a cosponsor of this bill for two reasons. First, the Institute of Interdisciplinary Studies, in my own State of Minnesota, has been a leading force in the development of the health maintenance organization strategy. This organization, headed by my good friend, Dr. Paul Ellwood, was instrumental in persuading the administration to adopt the health maintenance strategy. Since then, through testimony before the Health Subcommittee, and in consultation with members and staff of the subcommittee, Dr. Ellwood and his excellent interdisciplinary team have provided an invaluable resource in developing the approach which is reflected in this legislation. The health services research team at the Institute includes a physician-economist, two lawyers, a psychologist, a biostatistician, and a theoretical physicist.

I am also pleased that the bill reflects the substance of my proposed Community Medicine Act, S. 1301. My bill seeks to engage medical schools and teaching hospitals in the delivery of health services to underserved populations through health maintenance organizations. Thus, it has two objectives: to improve the quality and relevance of medical education, and to improve the level of services to those whom the present delivery system has left behind. The provisions for area health education and service centers in the bill should achieve the same objectives.

Perhaps most significantly, this bill will make it possible for high quality, comprehensive, medical services to be brought to citizens in our rural areas who have increasingly been denied such care.

I am greatly encouraged by the possibility that enactment of this legislation will contribute to the control of health care costs. As we all know, these have been skyrocketing. Experts agree that group practice, emphasizing preventive care and early detection of disease, can help to cut the costs of medical care, while not sacrificing quality. The bill also provides for a significant innovation in the form of a quality health care commission. This commission should be able to lead the way in the development of new measures and standards to monitor and improve the quality of care. The Institute for Interdisciplinary Studies in Minneapolis contributed significantly to the development of these features in the bill.

There is a rapidly growing consensus on the advantages of using health maintenance organizations as a means for delivering health care. We have such a plan operating very successfully in St. Paul, Minn., and another excellent plan serving the northern Minnesota communities of Hibbing and Virginia. The experience in our State amply justifies the reliance that this bill places on health maintenance organizations as an important contribution to improved health delivery.

Mr. President, I believe this is an excellent bill and the Senator from Massachusetts (Mr. KENNEDY), who has worked so hard and so effectively as chairman of the Health Subcommittee, deserves our congratulations and our appreciation. I am proud of my contribution and that of a number of outstanding Minnesotans to this bill. I hope it will be approved and acted on promptly by the House.

Mr. PELL. Mr. President, it is with great pleasure that I speak in support of

S. 3327, the Health Maintenance Organization and Resources Development Act of 1972.

As a member of the Health Subcommittee on the Senate Committee on Labor and Public Welfare, I took part in the lengthy and in-depth public hearings on this legislation which started over a year ago. The testimony given indicated that there is a great need in this country for some type of Federal support to improve the present health care delivery system. Indeed, if there was one underlying theme in all of the hearings, it is the great need of facilities in which all of our citizens can find available service both for preventative and curative medical care. And we would be remiss if we did not admit that medical care in this country turns around a person's ability to pay.

I am proud that one of the models used for a vital, innovative quality health maintenance organization was the Rhode Island Group Health Association.

This bill goes a long way toward meeting these medical needs. I am glad, too, that it incorporates some of the ideas contained in my own minimum health care bill S. 703. It is my hope that it will soon become public law and also become meaningly funded.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. MANSFIELD. While we are waiting, could I pass some unobjected-to items on the calendar?

Mr. KENNEDY. I have no objection.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of all items on page 12 of the calendar and the first item on page 13 of the calendar, beginning with Calendar No. 1109.

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

CHEYENNE-ARAPAHO TRIBES OF OKLAHOMA

The bill (H.R. 6575) to amend the act entitled "An Act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma", approved October 31, 1967 (81 Stat. 337) was considered, ordered to a third reading, read the third time, and passed.

CHIEF PETTY OFFICER JUDGE P. OLIVER

The resolution (S. Res. 178) to refer the bill (S. 272) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 2721) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver", now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

DATRONICS ENGINEERS, INC.

The resolution (S. Res. 357) to refer the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, that the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc.", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

The Chief Commissioner is specifically requested to determine the expenses, damages, and losses of the claimant to which claimant is entitled by way of equitable or legal relief attributable in whole or in part, directly or indirectly, to transactions with the United States Navy under contract numbered NBY 48950 awarded on July 19, 1963.

The Congress of the United States waives the defense of lack of privity between the United States and the claimant as a bar to relief or entertainment of a claim for relief commenced under this resolution.

Mr. MANSFIELD. Mr. President, I will ask that we stop at Calendar No. 1111, and we will proceed with them later.

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The PRESIDING OFFICER (Mr. GRAVEL). The committee amendment is open to further amendment.

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 139, between lines 2 and 3, insert the following:

"PART F—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis.

"(b) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975.

Mr. MONDALE. Mr. President, this amendment is intended to assist in the development of health service organizations in rural areas. The bill, S. 3327, already recognizes that the more sparsely populated areas of the Nation face special impediments in moving toward prepaid health plans. Therefore, it authorizes health service organizations for nonmetropolitan areas with somewhat more flexible requirements than for the "standard" health maintenance organization.

The impediments to establishing rural programs include geographically larger service areas required for an enrolled population which can support comprehensive care arrangements; the relative scarcity of multispecialty medical groups in rural settings; the aversion that farmers and other rural people with irregular income may have to the prepayment approach to medical care; and the shortage of local leadership prepared to assume responsibility for the development of prepaid group practice arrangements.

Scarcity of leadership is of course crucial. There is no apparent lack of leadership potential among rural people. But rural leadership on health problems tends to be latent and often must be mobilized on an ad hoc basis. In contrast, urban areas more often have institutionalized leadership, represented by specialized offices and personnel devoted full-time to health matters.

In view of these unique problems facing nonmetropolitan areas, we must make special arrangements to assure that the developmental efforts needed for rural programs will be supported ade-

quately. We should, therefore, take full advantage of any public and nonprofit entities which have special concern and competence in rural health. They could take initiatives as well as stimulate other individuals and groups into action. Unless this is done, the accelerated thrust in S. 3327 toward health maintenance organizations as the dominant means for reshaping health delivery in the United States may leave rural areas even further behind than they are now.

My amendment is designed to insure access to funding for any public or nonprofit private entity which is in a position to contribute to the development—but not operation—of prepaid health services in the more sparsely populated, nonmetropolitan areas of the United States. Under my amendment, an organization would be eligible for funding regardless of whether it was organized on a national, State, or local—that is, health service area—basis. In rural settings, we may need to rely initially upon State and national agencies to work cooperatively with local leadership toward establishment of health service organizations.

Under my amendment, an entity would be eligible for funding if it was not prepared to move directly toward operation of a health service organization, but instead was engaged in a project that would facilitate the eventual creation of a health service organization in a particular nonmetropolitan setting. For example, an organization now serving as a watchdog for rural areas—keeping track of emerging programs, policies, and practices and informing local groups of such developments—might qualify for funding. It would not, however, be eligible for funding, under this amendment, for operation as an HSO, but only for assistance in the planning and developmental phase.

We cannot anticipate at this time the range of entities that might contribute in a significant way toward rural-based prepaid, comprehensive health care systems. The important consideration is that we not restrict the financial assistance in this bill to locally based organizations that are prepared to move directly to the operation of health service organizations.

My amendment would assure access to funding to entities promising to promote more indirect routes toward the establishment of prepaid, comprehensive health care arrangements in nonmetropolitan areas. In view of the present impediments, these may be the only courses to follow.

In other words, what this amendment is designed to do is to make certain that provisions of the pending legislation are realistically adapted to the problems that are faced in rural areas, where there may not be any of the type of organizational structures one might expect to find initially in urban areas.

I do not think it is a controversial amendment. I would hope the committee could accept it.

Mr. JAVITS. Mr. President, I am going to suggest the absence of a quorum for one very good reason—I have not seen the amendment. It is being printed.

I have just been handed a copy of it now.

Mr. KENNEDY. Mr. President, as I understand the amendment, it would permit in rural America those public or private, nonprofit organizations which have been forced either at the national or State or local level to provide technical kinds of assistance to help with the development of HSO's.

Mr. MONDALE. The Senator is correct. It is not controversial. It is simply to make the provisions of this bill more adaptable to rural situations.

Mr. JAVITS. Mr. President, if the Senator will yield, would he leave out the provision for the money? I think the Senator from Colorado (Mr. DOMINICK) is right. This is a multibillion-dollar program. We come in here suddenly with $15 million. Why cannot we make them eligible for grants under the bill?

Mr. KENNEDY. I would interpret it to mean that they would be eligible under various existing provisions for development and formulation grants. That is what we want to do—permit these groups to help in the development and formulation of health service organizations.

Mr. MONDALE. Mr. President, I ask to modify my amendment by deleting subsection (b) which contains specific amounts authorized to be appreciated.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 139, between lines 2 and 3, insert the following:

"PART F—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate staff may be allowed to make technical corrections in order to coordinate the bill.

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

The question is on agreeing to the committee amendment, in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage. This is an important bill. This is one of the few times when the leadership has asked for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered.

Mr. DOMINICK. Mr. President, before we go to a vote, I just wish to make a brief statement. I appreciate very much the cooperation of the Senator from New York and the Senator from Massachusetts in taking the second amendment. I want to repeat that I believe, if we had had a full membership here, 51 Senators would have voted in favor of my amendment. However, adoption of the other amendment cures a part of the problem.

I am probably going to vote "yea" on final passage, even though I have strong reservations about portions of it.

In addition to my specific concerns about the restrictive definition of HMO, the broad powers of the quality commission, and the massive permanent capitation subsidies, I would like to reemphasize the two basic problems I see with its approach.

First, it is unrealistic, both in terms of cost and scope. It authorizes more than $5 billion over the first 3 years. It tries to do too many things other than improve the health care delivery system. The development of a more efficient and accessible delivery system is in itself a formidable task for one piece of legislation. To the extent that this bill attempts to do more, such as direct financing of medical care by the Federal Government, its chances of improving the delivery system are diminished.

Second, it is a promotional bill, rather than an assistance bill. It does not objectively attempt to improve the delivery system. It is designed instead to promote one particular form of health care delivery—closed panel group practice, and one particular financing mechanism—direct payments to health providers by the Federal Government, a la national health insurance.

As I have indicated, I will vote for the bill, because I think it addresses some important health care problems. But I hope that if this bill does not pass the House and go through conference and back to the various bodies before we adjourn, we will have an opportunity to improve it next year, so that it will represent a realistic effort to improve the health care delivery system.

Mr. JAVITS. Mr. President, just one word in respect to what the Senator from Colorado (Mr. DOMINICK) has said. It goes back to what we said originally.

If the question of health care were in an experimental state, I could agree with the Senator. But, Mr. President, it is far advanced. The estimate of what is being spent in the United States for health care per annum is well in excess of $60 billion a year. I believe the exact figure is well over that.

We have debated for years now one form of being able to cover all Americans, certainly, on the health issue. Therefore, as I believe we are already far advanced

into this field, and that this is an essential plateau upon which we must learn to stand, I believe the requirements plus the carrot, which is the appropriation, will enable us to bring the American medical delivery system to a point where it will not be the highly expensive and relatively exclusive province, in terms of many millions of Americans, that it is today.

I think it is rather to the credit of the Senator from Colorado (Mr. DOMINICK)—and he has shown this before—that although he has very grave reservations, he allows himself to go along with an effort to try something out. Though expressing his doubts, he will still vote "yea." His point of view has been very important on our committee. I for one, as I am so close to him on this committee, value very much that attitude of a very enlightened American conservative. I think it is very sensible, and I appreciate it very much.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. HARRY F. BYRD, JR. What is the amount involved, approximately?

Mr. KENNEDY. $5.1 billion.

Mr. HARRY F. BYRD, JR. $5.1 billion?

Mr. KENNEDY. For a 3-year period.

The PRESIDING OFFICER. (Mr. GRAVEL). The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Illinois (Mr. STEVENSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would vote "yea."

On this vote, the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senator from Texas (Mr. TOWER).

If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from Illinois (Mr. STEVENSON) is paired with the Senator from New York (Mr. BUCKLEY).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from New Jersey (Mr. WILLIAMS) is paired with the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Mississippi would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend the Interparliamentary Union meetings.

On this vote, the Senator from Vermont (Mr. STAFFORD) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Vermont would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from South Dakota (Mr. MCGOVERN). If present and voting, the Senator from Texas would vote "nay" and the Senator from South Dakota would vote "yea."

On this vote, the Senator from New York (Mr. BUCKLEY) is paired with the Senator from Illinois (Mr. STEVENSON). If present and voting, the Senator from New York would vote "nay" and the Senator from Illinois would vote "yea."

If present and voting, the Senator from Iowa (Mr. MILLER) would vote "yea."

The result was announced—yeas 60, nays 14, as follows:

[No. 462 Leg.]

YEAS—60

Aiken	Fulbright	Montoya
Anderson	Gambrell	Moss
Beall	Gravel	Nelson
Bellmon	Griffin	Packwood
Bentsen	Gurney	Pastore
Bible	Hart	Pearson
Boggs	Hatfield	Pell
Brooke	Hruska	Percy
Burdick	Hughes	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Roth
Case	Jackson	Schweiker
Chiles	Javits	Scott
Church	Kennedy	Smith
Cook	Magnuson	Stevens
Cooper	Mansfield	Symington
Cranston	Mathias	Talmadge
Dole	McClellan	Tunney
Dominick	McIntyre	Weicker
Fong	Mondale	Young

NAYS—14

Allen	Curtis	Hansen
Bennett	Eastland	Jordan, Idaho
Byrd, Harry F., Jr.	Edwards	Long
	Ervin	Proxmire
Cotton	Fannin	Spong

NOT VOTING—26

Allott	Hollings	Sparkman
Baker	Jordan, N.C.	Stafford
Bayh	McGee	Stennis
Brock	McGovern	Stevenson
Buckley	Metcalf	Taft
Eagleton	Miller	Thurmond
Goldwater	Mundt	Tower
Harris	Muskie	Williams
Hartke	Saxbe	

So the bill (S. 3327) was passed, as follows:

S. 3327

An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Health Maintenance Organization and Resources Development Act of 1972".

SEC. 2. (a) The Congress finds that—

(1) there is a shortage and maldistribution of quality health care resources which has resulted in limited access to quality health care in the United States;

(2) the present health care system is not organized in a manner which encourages the efficient and economical provision of quality health care;

(3) the present health care system is oriented toward providing care to those manifesting disease, rather than toward providing health maintenance services and maintaining good health;

(4) the establishment of health maintenance organizations, health service organizations, and area health education and service centers will aid in alleviating the serious maldistribution of health care resources which has resulted in inadequate access to medical care particularly in both inner city and rural areas, in providing health care in a more efficient and economical manner, and in reorienting the health care system toward the maintenance of health;

(5) there is a need to provide technical assistance and resources to individuals and groups, undertaking the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers;

(6) there is a shortage of educational facilities in health sciences, unbalanced emphasis on hospital practice and on rare and exotic diseases in medical education; and

(7) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in improving the system for the delivery of health care through encouragement of and support for the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers, particularly with the intent of improving the health of populations in medically underserved areas.

SEC. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

TITLE I—HEALTH MAINTENANCE ORGANIZATIONS

SEC. 101. The Public Health Service Act is amended by inserting after title X the following new title:

"TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1101. For purposes of this title:

"(1) The term 'health maintenance organization' means an entity which—

"(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformly available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, for a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"(E) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided; and (iii) education in the contribution the patient can make to the maintenance of his own health;

"(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance;

"(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"(I) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance or health service organization who are temporarily outside the service area of the health maintenance, supplemental health maintenance, or health service organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"(L) provides, or makes arrangements for continuing education for its staff;

"(M) emphasizes the use of nurse practitioners, physicians' assistants, dental therapists and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"(O) may purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees;

"(P) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities; and

"(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provision of this title.

"(2) The term 'comprehensive health services' means health services provided without limitation as to time or cost as follows—

"(A) physician services (including consultant and referral services);

"(B) inpatient and outpatient hospital services;

"(C) home health services;

"(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

"(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"(H) medical social services;

"(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"(J) physical medicine and rehabilitative services (including physical therapy);

"(K) mental health services utilizing existing community mental health centers on a priority basis;

"(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

"(3) The term 'medical group' means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under this Act, in conformance with requirements promulgated under section 1202, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records, and substantial portions of major equipment and professional, technical, and administrative staff; (D) share or jointly utilize such additional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physicians' assistants, nurse practitioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, supplemental health maintenance organization (as defined in part B), or health service organization (as defined in part C) means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or a health service organization under which such organization assumes the responsibility for the provision of health services to such individual.

"(5) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"(6) The terms 'construction' and 'cost of construction' include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, and acquisition of land, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) The term 'university health center' means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"(8) The term 'area health education and service center' means a hospital, educational facility, or other public or private nonprofit entity affiliated with a university health center for the purpose of providing clinical training (stressing cooperative interdisciplinary training in the use of the team approach to the provision of health care services) in a nonmetropolitan area

(other than an area presently served by a university health center) which—

"(A) has an agreement with a health maintenance organization or health service organization (if such an organization exists within the geographical area served by such center) to provide education services to, and health care services through such organization;

"(B) has an agreement with other providers of health care to provide education services to, and health care services through such center; and

"(C) provides, to all health professionals belonging to disciplines eligible for assistance under this Act in the geographic area which it serves, equal opportunity to use its facilities and programs.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"(10) The term 'non-profit provider group' means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"(11) The term 'high-risk enrollee' means a person who is likely to utilize the services of a provider of health care more often than an actuarily determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1102. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1103. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit agencies, organizations, or institutions, to assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activities; and (5) payment of architects' and engineers' fees.

"(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(d) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1104. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1105. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1106. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COSTS OF OPERATION

"SEC. 1107. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"PART B—SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1108. The Secretary may make grants and loans to supplemental health maintenance organizations (as defined in section 1109) from funds appropriated pursuant to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 17.5 per centum of the amounts appropriated under such part. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitations as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1101).

"DEFINITIONS

"SEC. 1109. For the purposes of this part and part E—

"(1) The term 'supplemental health maintenance organization' means a public or private organization which—

"(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per capita prepayment basis;

"(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"(C) provides physicians' services (i) directly through physicians who are either

employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically and in a manner which assures continuity;

"(E) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance; and

"(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative."

TITLE II—SUPPORT OF HEALTH SERVICE ORGANIZATIONS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to assist in the establishment of health service organizations primarily directed at defined rural population groups which are characterized by a lack of medical care services.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 202. The Public Health Service Act, as amended by this Act, is further amended by inserting after part B of title XI the following new part:

"PART C—HEALTH SERVICE ORGANIZATIONS

"DEFINITIONS

"SEC. 1120. For the purpose of this part the term—

"(1) 'health service organization' means an entity operating in a rural or nonmetropolitan area which—

"(A) provides as a minimum for all its enrollees, indirectly or directly through its own staff and supporting resources or through a medical group or groups, comprehensive health services, to the extent the Secretary determines such organization is able, which are uniformly available to all its enrollees, and such additional services as may be required through other health delivery entities, for a fixed payment which—

"(i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and

"(ii) is uniform for all its enrollees, subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate health services are available and accessible to all its enrollees promptly in a manner which assures continuity;

"(C) has a written agreement with an area health education and service center for the use of the educational and service facilities and programs of such center, if such a center is located in the geographic area served by such health service organization;

"(D) provides, to the extent the Secretary determines such health service organization is able, continuing education for its staff;

"(E) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(F) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health service organization and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health service organization (including the medical group or groups and other health delivery entities providing health services) and (ii) between the medical group or groups providing health services and other employees of the health service organization;

"(G) encourages and actively provides for its enrollees (i) health education services, (ii) education in the appropriate use of the health services provided, and (iii) education in the contribution the patient can make to the maintenance of his own health;

"(H) has organization arrangements established in accordance with regulations of the Commission on Quality Health Care Assurance for an on-going quality assurance program which stresses health outcomes, and assures that health services provided meet quality standards established in accordance with requirements of the Commission on Quality Health Care Assurance;

"(I) provides in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operation, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and discloses at least annually in a manner acceptable to the Secretary such data to its enrollees and to the general public;

"(J) except for (i) out-of-area emergency services; and (ii) care reasonably valued in excess of the first $5,000 per enrollee, per year assumes direct financial responsibility without benefit of insurance, on a prospective basis for the provision of comprehensive health services as defined in section 1101(2);

"(K) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity;

"(L) assumes responsibility for health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance, supplemental health maintenance, or health service organization who are temporarily outside the service area of the health maintenance or health service organization in which they are enrolled) twenty-four hours a day, seven days a week and for the appropriate availability of such services in emergencies;

"(M) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provisions of health services;

"(N) emphasizes the use of physicians' assistants, dental therapists, nurse practitioners, and other allied health personnel, and to the extent practicable and consistent with good medical practice, trains, and employs such personnel in the rendering of services; and

"(O) meets such other criteria including plans for providing full comprehensive health services at a future date where the Secretary has determined such an organization was not able to provide such health services under paragraph (A), for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1121. (a) The Secretary may make grants subject to the general provisions of this title to public or private nonprofit agencies, organizations, or institutions to assist in meeting the costs of projects for planning or studying the feasibility of developing or expanding a health service organization. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period, not to exceed two years from the date of the award, designated by the Secretary.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1122. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit entity to assist it in meeting the costs involved in a project for the initial development of a health service organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years and shall be utilized for such purposes as may be prescribed in regulations of the Secretary including but not restricted to (1) implementation of an enrollment campaign, (2) detailed design of an arrangement for the health services to be provided, (3) development of administrative and internal organizational arrangements including fiscal control and fund accounting procedures and the development of a capital financing program, (4) recruitment of personnel and the conduct of personnel training activities, and (5) payment of architects' and engineers' fees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1123. (a) (1) The Secretary may make grants subject to the general provisions of this title to assist any public or private nonprofit health service organization in meeting the cost of construction of facilities or portions thereof for ambulatory care and capital investment for necessary transportation and communication equipment to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances in which costs up to 90 per centum of the cost of construction may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction on such project. No project may receive more than $2,500,000 in grants under this section.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COST OF OPERATION

"SEC. 1124. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public or private nonprofit health service organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be

made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1125. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization or any public or private nonprofit agency, organization, or institution intending to become a health service organization to assist it in meeting the cost of construction and facilities for ambulatory care and transportation and communication services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other receipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COST OF OPERATION

"SEC. 1126. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization to assist it in meeting, for the period prescribed in subsection(b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day and such loans with respect to any project may not exceed 60 per centum of such initial operating costs for the first year after such first day; 40 per centum of such initial operating costs for the second year after such first day and 20 per centum of such initial operating costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayemnt of loans made under this section and any other receipts in connection with the programs under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section."

TITLE III—AREA HEALTH EDUCATION AND SERVICE CENTERS AND GENERAL REQUIREMENTS

SEC. 301. The Public Health Service Act, as amended by this Act, is further amended by inserting after part C of title XI the following new parts:

"PART D—GRANTS TO ASSIST AREA HEALTH EDUCATION AND SERVICE CENTERS

"STATEMENT OF PURPOSE

"SEC. 1130. It is the purpose of this part to—

"(1) promote cooperative arrangements between area health education and service centers and health service organizations;

"(2) provide for and encourage, the continuing education of providers of health care services in a designated area and stressing cooperative interdisciplinary training in the use of the team approach to the provision of health services;

"(3) provide for and encourage clinical experience in a nonmetropolitan setting for students from university health centers; and

"(4) encourage the utilization of regional medical programs where such programs exist.

"GRANTS FOR COSTS OF DEVELOPMENT

"SEC. 1131. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist in meeting the costs involved in the development of area health education and service centers.

"(b) Funds awarded under such grants shall be available for expenditure by the grantee for a maximum of three years and shall be utilized for such purposes as may be prescribed in regulation by the Secretary, including but not limited to: (1) detailed design of and arrangements for education, health and medical services, and integration with the institution's research and educational programs; (2) development of administrative and internal and organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; and (3) recruitment of personnel and conduct of personnel training activity.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973; $50,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975.

"CONSTRUCTION OF FACILITIES

"SEC. 1132. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist them in the construction and equipment of educational facilities in conjunction with the development of area health education and service centers. An award under this authority shall be made only after the Secretary has determined that assistance for the construction proposed has been sought and is not available under titles I and II of the Medical Facilities Construction and Modernization Amendments of 1970 and title IX of the National Housing Act.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $25,000,000 for the fiscal year ending June 30, 1975.

"PART E—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1140. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1141. No payment of principal on a loan shall be required for the first five years after such loan is made.

"(b) No such loan shall be made unless—

"(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(d) No such loan shall have a term in excess of fifteen years.

"(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"LOAN GUARANTEES AND INTERESTS SUBSIDIES

"SEC. 1141. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, or to meet their initial development costs (for not more than three years) or to meet their costs of operation (for not more than three years), (2) assist university health centers, regional medical programs, and other non-profit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1973, and ending with the close of June 30, 1975, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or health service organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan guarantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, health service organization, university health center, regional medical program, or other non-profit provider unless—

"(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such

per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes; and

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(f) (1) There is established in the Treasury a Health Maintenance Organization, Health Service Organization and Area Health Education and Service Center Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets.

"(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"(g) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(2) In any fiscal year no loan guarantee or agreements to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

"(A) the principal of the loans guaranteed under this title in such fiscal year, and

"(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"APPLICATION REQUIREMENTS

"SEC. 1142. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b) (1), as the Secretary shall by regulation prescribe.

"(b) (1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization, supplemental health maintenance organization, or health service organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(2) Upon completion of assistance under this title, the recipient of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"(c) A health maintenance organization, supplemental health maintenance organization, health service organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance.

"(d) (1) An application for a grant or for a loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effiectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(2) No grant may be made and no loan, loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which it determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1202.

"EFFECT ON STATE LAW

"SEC. 1143. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health main-

tenance organization, supplemental health maintenance organization or health service organization by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization, supplemental health maintenance organization, or health service organization;

"(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"(4) require that such organization submit to regulations as an insurer of health care services;

"(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"(6) prohibit advertising by a professional group for recruitment of enrollees; or

"(7) impose requirements or restrictions on a health maintenance organization, supplemental health maintenance organization, or health service organization in a manner, determined by the Secretary, to be incompatible with this title,

a health maintenance organization, a supplemental health maintenance organization, a health service organiaztion (as defined in this title), or other providers of health care receiving Quality Health Care Initiative Awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"QUALITY HEALTH CARE INITIATIVE AWARDS

"SEC. 1144. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to 2 per centum of the gross revenues of such provider attributable to the delivery of health care services in order to defray expenses associated with such compliance. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1202.

"(b) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $300,000,000 for the fiscal year ending June 30, 1974; and $500,000,000 for the fiscal year ending June 30, 1975.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS, SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS, AND HEALTH SERVICE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1145. (a)(1) The Secretary shall make annual grants to health maintenance organizations, supplemental health maintenance organizations, or health service organizations, serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants shall be equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance, supplemental health maintenance or health service organization premium and the premium for membership enrollment in such health maintenance, supplemental health maintenance or health service organization for each such person enrolled.

"(2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"(3) Grants under this section shall not exceed 25 per centum of the total premium receipts for such health maintenance, supplemental health maintenance or health service organization for the next preceding year.

"(4) There are authorized to be appropriated to carry out the provisions of this section $150,000,000 for the fiscal year ending June 30, 1973; $375,000,000 for the fiscal year ending June 30, 1974; and $700,000,000 for the fiscal year ending June 30, 1975.

"(b)(1) Where a health maintenance, supplemental health maintenance, or health service organization proposes an increase in its premium rate and the Secretary determines that such increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary shall make annual grants to such organization equal to an amount that would eliminate the need for that part of the proposed premium increase caused by such disproportionate number of high-risk enrollees in such organization.

"(2) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $350,000,000 for the fiscal year ending June 30, 1975.

"PAYMENT OF GRANTS

"SEC. 1146. The amount of any grant under this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"PROHIBITION ON TRANSFER OF FUNDS

"SEC. 1147. (a) No funds appropriated pursuant to any of the preceding sections of this title shall be available for any purposes other than the purposes of the program authorized by the particular section pursuant to which such funds are appropriated.

"(b) No funds, except those appropriated under this title, shall be used for the purposes of carrying out the provisions of this title.

"(c) Only funds appropriated under titles IX and XI of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, supplemental health maintenance organization, health service organization, and any other entity that provides, either directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1148. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"OPEN ENROLLMENT WAIVER

"SEC. 1149. In a case where all appropriated funds are expended under section 1145(b)(2) and where a health maintenance organization, supplemental health maintenance organization, or health service organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enrollment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance, supplemental health maintenance, or health service organization may receive more than one waiver.

"ACCESS TO RECORDS

"SEC. 1150. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act.

"PART F—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis."

TITLE IV—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 401. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1972".

STATEMENT OF PURPOSE

SEC. 402. It is the purpose of this title to promote the quality of health care in the United States by establishing a Commission on Quality Health Care Assurance to develop, establish, and encourage parameters and standards for quality health care.

SEC. 403. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XI the following new title:

"TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established (as an independent agency in the executive branch) a Commission on Quality Health Care Assurance.

"(b) The Commission shall be composed of eleven members to be appointed by the President by and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be five years except that—

"(1) the members first appointed shall serve, as designated by the President, three

for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(3) a member shall be eligible for reappointment for one additional term.

"(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"(2) conduct such research and experimental programs as are determined necessary for the development of—

"(A) criteria for new and improved quality assurance systems, and

"(B) norms, with regard to processes, utilization characteristics, and outcomes;

"(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2) quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"(A) improve as well as assess the quality of health care;

"(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"(C) concentrate on those illness which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"(D) improve as well as assess the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance, supplemental health maintenance, or health service organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"(4) issue certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards, approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission;

"(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the performance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963;

"(8) conduct a program of research and development which shall have the objectives of—

"(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"(C) analyzing the effects of providing information to consumers and improvement in the methods of information dissemination;

"(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"(E) coordinating the collection, assimilation, and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship;

"(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"(10) provide technical assistance to providers of health care in the development of quality control programs;

"(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"(12) administer the reinsurance program established under part B of this title;

"(13) interface with National Institute of Health Care Delivery established under title XIII of this Act;

"(14) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;

"(15) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1209; and

"(16) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies, and analysis of the results of the reinsurance program and the results of arbitration procedures under part B of this title.

"ADMINISTRATIVE POWERS

"SEC. 1203. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"(2) make, promulgate issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise it with respect to his functions under this Act;

"(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(9) take such actions as may be required for the accomplishment of the objectives of the Commission.

"(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks.

"(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"(1) the appointment and supervision of personnel employed by the Commission;

"(2) the distribution of jobs among the personnel of the Commission; and

"(3) the use and expenditure of funds.

"COMPENSATION

"SEC. 1204. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(96) Members, Commission on Quality Health Care Assurance (10).

"'(97) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

"SEC. 1205. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1202 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1202 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"REPORTS AND MAINTENANCE OF RECORDS

"SEC. 1206. (a) Each provider, covered, under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"SEC. 1207. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrolle, the following:

"(1) fees and prices;

"(2) scope of services included in benefit packages;

"(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location, and amenities;

"(4) the name and type of administration of the plan; and

"(5) a statement of certification by the Commission.

"(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"(f) Every provider shall furnish a copy of the plan description (including amendments or modification thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"PENALTIES

"SEC. 1208. (a) (1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1202. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"(b) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"ARBITRATION

"SEC. 1209. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1202 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary boards for each such arbitration procedure under the territorial jurisdiction of such board.

"(d) (1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(3) A closing statement shall be filed with the Commission with every proceeding in which a retainer statement is required containing such information as the Commission shall require.

"(4) All statements of retainer or closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIA AND NORMS

"SEC. 1210. (a) The Commission may, by rule, promulgate, modify, or revoke any quality health assurance system criterion or norm in the following manner:

"(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title,

the Commission shall publish such proposed rule promulgating, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission written objections to the proposed rule stating the grounds therefor and requesting a public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"(3) within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register a rule promulgating, modifying, or revoking standards, criteria for quality health care assurance systems or norms or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criteria or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated, file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criteria or norm. The determinations of the Commission shall be conclusive if supported by substantial evidence in the record considered as a whole.

"(c)(1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearings to be necessary.

"(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"STATE JURISDICTION AND STATE PLANS

"SEC. 1211. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issues with respect to which no standard criterion, or norm is in effect under section 1202 of this Act.

"(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1202, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1202 which relate to the same health issues;

"(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards, criteria, and norms;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health program applicable to all providers of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"(8) provides that the State agency will make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"(e) After the Commission approves a State plan submitted under subsection (b), it may, but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1202, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

"(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(h) The Commission may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more health standards, criterions, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this title, whichever is earlier.

"PROCEDURES TO COUNTERACT IMMINENT DANGERS

"SEC. 1212. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it shall seek relief under this section.

"(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Commission to seek such an order and for such further relief as may be appropriate.

"DEFINITIONS

"SEC. 1213. For the purposes of this title, the term—

"(1) 'input measures' means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"(2) 'process measure' means assessment based upon the conformance of medical decisions and actions taken in actual episodes of care to some defined standards of medical practice;

"(3) 'utilization characteristics' mean those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"(4) 'outcome measure' means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"(5) 'Commission' means the Commission on Quality Health Care Assurance;

"(6) 'reinsurance program' means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"(7) 'norm' means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1214. There are authorized to be appropriated for the carrying out of the provisions of this part $75,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $110,000,000 for the fiscal year ending June 30, 1975.

"PART B—FEDERAL MEDICAL MALPRACTICE REINSURANCE PROGRAM

"PROGRAM ESTABLISHED

"SEC. 1220. There is hereby established an insurance program to be known as the Federal Medical Malpractice Reinsurance Program which shall be administered by the Commission.

"SCOPE OF PROGRAM

"SEC. 1221. The Commission shall make medical malpractice liability reinsurance available to primary insurers of such liability to the extent that such primary insurers are liable for damages resulting from acts of an insured who holds a valid certificate of compliance in accordance with the requirements of section 1202.

"BASIC AUTHORITY

"SEC. 1222. (a) In carrying out the medical malpractice reinsurance program the Commission shall arrange for—

"(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

"(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

"(b) The Commission shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Commission determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

"NATURE OF COVERAGE

"SEC. 1223. (a) The Commission from time to time shall, after consultation with appropriate representatives of insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to primary medical malpractice insurers participating in the reinsurance program, including—

"(1) the nature and limits of liability which may be covered by such insurance;

"(2) the classification, limitation, and rejection of any risks which may be advisable;

"(3) appropriate minimum and maximum premiums;

"(4) appropriate deductibles; and

"(5) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

"(b) The Commission may enter into such contracts, agreements, or other arrangements, upon such terms and conditions as may be agreed upon with primary insurers in order to carry out the purposes of this part.

"PREMIUM RATES

"SEC. 1224. (a) Premium rates established by the Commission shall be—

"(1) uniform with respect to similar classifications of risks;

"(2) sufficient to provide adequate proceeds to pay all claims for probable losses over a reasonable period of years; and

"(3) exclusive of any loading for administrative expenses of the United States under this part.

"(b) Premiums established under subsection (a) shall be paid to the Commission in such a manner as the Commission shall prescribe by regulation.

"TREASURY BORROWING AUTHORITY

"SEC. 1225. (a) The Commission is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commission, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) Any funds borrowed by the Commission under this authority shall, from time to time, be deposited in the Medical Malpractice Reinsurance Fund established under section 1226.

"MEDICAL MALPRACTICE REINSURANCE FUND

"SEC. 1226. (a) To carry out the reinsurance program authorized by this Act, the Commission is authorized to establish in the Treasury of the United States a Medical Malpractice Reinsurance Fund which shall be available, without fiscal year limitation—

"(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 1225 of this title; and

"(2) to pay such administrative expenses (or portion of such expenses) of carrying out the reinsurance program as the Commission may deem necessary; and

"(3) to pay claims and other expenses and costs of the reinsurance program (including any premium equalization payments and reinsurance claims), as the Commission deems necessary.

"(b) The fund shall be credited with—

"(1) such funds borrowed in accordance with the authority provided in section 1225 of this Act as may from time to time be deposited in the fund;

"(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

"(3) interest which may be earned on investments of the fund pursuant to subsection (c);

"(4) such sums as are required to be paid to the Commission under section 1224; and

"(5) receipts from any other operations under this Act which may be credited to the fund.

"(c) If, after all outstanding obligations have been liquidated, the Commission determines that the moneys of the fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"PAYMENT OF CLAIMS

"SEC. 1227. The Commission is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage which is covered by medical malpractice reinsurance made available under the provisions of this Act."

TITLE V—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"SEC. 501. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"ESTABLISHMENT OF INSTITUTE

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which

give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to the formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local government agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this part.

"(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1304.(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

"SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such

programs if such requirement is imposed by law or by any regulation required by law.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

SEC. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarilly to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the offices of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects

under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term 'Federal grant-in-aid program' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

"(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 502. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I, II, and XIV".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XIV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1401 through 1414, respectively.

(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92-157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3327.

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

Mr. KENNEDY. Mr. President, at this time I want to extend my thanks to the Senator from New York, the Senator from Colorado, the Senator from Pennsylvania, and all minority members on the Health Subcommittee and the full Committee on Labor and Public Welfare for their cooperation, as well as to the Democratic members who made such a valuable contribution to this bill. It is comprehensive; it is far-reaching. I think it is the kind of approach which will prove to be most effective in providing quality health care to the people of this country.

I also thank the staff of the Health Subcommittee: Dr. Philip Caper, who has spent a great deal of time on the bill, as well as Mr. Cutler, Mr. Hunnecutt, Mr. Woodruff, Mr. Goldman, Dr. Horowitz, Dr. Perpich, Mr. Jones, Mrs. Janet Klein of the Library of Congress and Mr. Danny Murray of the Senate Legislature Counsels office. These persons did yeoman's service on this bill.

Mr. JAVITS. Mr. President, I join the Senator from Massachusetts in thanking the staff members especially. They always do such an unbelievably Herculean job and in this case, with such a complex situation, they acquitted themselves admirably on the majority and the minority side.

I also want to thank the Senator from Colorado (Mr. DOMINICK) for his fine feelings of assessing exactly what he wanted to accomplish and economizing on the time and effort of the Senate. He did exactly what he wanted to do—no less and no more—and then allowed the Senate to vote. His attitude was admirable and we all owe him a special vote of thanks.

I should also like to congratulate the Senator from Massachusetts (Mr. KENNEDY) in piloting this bill through. I consider this to be a real milestone in progress towards universal quality health care for the people of this country.

Whatever plan we ultimately adopt, this is one of the essential elements in the infrastructure without which no one's plan, the American Medical Association's, Mr. Kennedy's, mine, or anyone else's, would be possible.

I thank the Chair.

Mr. MANSFIELD. Mr. President, it is with a great deal of admiration and appreciation that I commend the senior Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health of the Senate Labor and Public Welfare Committee. His remarkable handling of the three health bills which were so expeditiously and thoughtfully disposed of today by the Senate demonstrates once again his role as a leader in this all-important area of providing health care to millions of Americans and breaking through the antiquated system that has long deprived many of the citizens of this Nation of adequate medical attention. His subcommittee and the entire Labor Committee deserve the highest accolades for their outstanding work on these health measures considered today—the Public Health Service Act, the DES measure and the health maintenance organization bill. The importance of the passage of these bills cannot be overemphasized.

Joining with Senator KENNEDY in moving these vital measures to successful passage by the Senate was the ranking minority member of the Labor Committee, the senior Senator from New York (Mr. JAVITS). His concern in this area of health care is well known and as always, he presented his views in an eloquent and well-informed manner. His expertise was once again invaluable.

Without the able assistance of all members of the Labor Committee—both those who favored the measure and those who retained reservations regarding it—the debate would not have been as well-developed and informative. The Senate is indebted to each and every Senator whose strong advocacy of varying views added to the high quality of debate.

As majority leader, I am deeply grateful for the cooperation demonstrated here today. The Senate once again has provided the leadership of action—and not leadership of rhetoric alone.

(The following proceedings, which occurred earlier in the day, are printed at this point in the RECORD by unanimous consent.)

TIME LIMITATION ON ESTABLISHMENT OF OLDER WORKER COMMUNITY SERVICE PROGRAM (S. 555)

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader and after consultation with the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from New York (Mr. JAVITS), I propound the following unanimous-consent request agreement, to be written in its usual form:

I ask unanimous consent that the time on S. 555, at such time as it is called up and made the pending business before the Senate, be limited to 20 minutes to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS); that the time on any amendment thereto be limited to 20 minutes, and that the time on any debatable motion or appeal likewise be limited to 20 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF OLDER WORK COMMUNITY SERVICE PROGRAM (S. 555) TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the routine morning business, the Chair lay before the Senate S. 555.

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

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be a yea-and-nay vote on S. 555 tomorrow morning after the time has expired under the unanimous-consent agreement.

Mr. DOMINICK. Mr. President, I would like to ask the Senator from West Virginia a question. I missed yesterday on official business, 10 votes, I believe it was. On the previous day, I think that I missed 11 votes, and on the previous day I missed about 5 votes. I had to be away. Most of those votes were 84 to nothing or something of that kind, or 76 to nothing.

Is there intended to be a system within the Senate by which we are required to vote to show that we are good boys and to be here on a rollcall vote or are we allowed on noncontroversial measures, as we always used to be able to do, to vote on a voice vote, particularly where there is no controversy?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Colorado knows as well as I do that under the Constitution a yea and nay vote is required upon a show of hands of one-fifth of the Senators present. And as long as a quorum of 51 Senators is present at all times, a show of 11 hands can call for a quorum. I do not question Senators if they want a yea-and-nay vote. They are entitled to it.

Mr. DOMINICK. Mr. President, I think that in the time since I have been here we have had probably 171 yea-and-

nay votes all the way through the middle of September and sometimes in October on a full year's program. This year we have had 427, I believe, already because everyone is just asking for yea-and-nay votes whether he needs it or not. I do not see any sense in it.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. PASTORE. Mr. President, I can understand the Senator's feelings completely. I felt pretty much the same way myself.

I do not think the leadership ought to be faulted. The requests for yea and nay votes have been made by sponsors of the amendments, and sometimes an amendment was unanimously accepted as the Senator from Colorado has stated. However, that is no one's fault but the Senator who sponsored the amendment and asked for a yea and nay vote.

In many cases we did not have 11 Senators present in the Senate, and they suggested the absence of a quorum. I quite agree with the Senator. However, I do not think it is anyone's fault but the temper of the Senate and the membership at the present time. We had yea and nay votes in certain situations when I thought it was ridiculous to take up the time of the Senate and have to rush back and vote in order to be shown as voting.

That was not the fault of the Senator from West Virginia nor the fault of the Senator from Montana. It was nobody's fault but the particular Senator who sponsored the amendment.

Mr. DOMINICK. Mr. President, I think the Senator from Rhode Island has made a very good point. I only bring it up because I am hoping that where we have a relatively noncontested amendment, we can get along without having a rollcall vote on it.

A great many Members may be hurt for one reason or another, because their opponents, whether they are running now, 2 years, or 4 years from now, will use this against them whether the vote would have made a particle of difference or not.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. MANSFIELD. Mr. President, I agree with the distinguished Senator from Colorado. May I say on behalf of the leadership on this side of the aisle that it is very seldom that we ask for yea and nay votes except on treaties. And on appropriation measures the yea-and-nay votes have been asked for by the majority and minority leaders.

I want to say to the Senator from Colorado that I hope that what he has suggested will be followed and that we will not be called upon to run back and forth to vote on matters which are noncontroversial and with which everyone agrees.

Mr. PASTORE. Mr. President, I would hope that the Senator from Colorado would set an example by not asking for a yea and nay vote.

Mr. DOMINICK. I am about to modify my amendment so that perhaps we can do so. However, the last vote was extremely close. And from that I can understand why we sometimes have to have yea and nay votes.

Mr. ROBERT C. BYRD. Mr. President, I thought it fair to announce on behalf of the leadership that there would be a yea and nay vote on the bill tomorrow. At the time there were not 11 Senators present or I would have made the request at the time. However, if a request is made by a Senator, that Senator is entitled to have his request at least acted upon.

So, I now ask unanimous consent that it be in order——

Mr. DOMINICK. Mr. President, may I ask the Senator from West Virginia, since I still have the floor, I believe, whether there is going to be an argument about this bill. If there is not going to be an argument about it, I will not raise my hand.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for the yeas and nays. However, the yeas and nays will be ordered tomorrow on the bill at the request of a Senator.

Mr. DOMINICK. Mr. President, I will bring up the point tomorrow.

(This marks the end of the colloquy which occurred earlier and which by unanimous consent was ordered to be printed in the RECORD at this point.)

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

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

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

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

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

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

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

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 1113 and going through 1118.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

JESUS MARIA GUERECA-MORALES AND DONALL TERRANCE TODD

The resolution (S. Res. 366) opposing the suspension of deportation of Jesus Maria Guereca-Morales and Donall Terrance Todd was considered and agreed to, as follows:

Resolved, That the Senate does not favor the suspension of deportation in the cases of the aliens hereinafter named in which cases the Attorney General has suspended deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254; 75 Stat. 1247):

XXXX Guereca-Morales, Jesus Maria.
XXXX Todd, Donall Terrance.

WAIVER OF CLAIMS OF THE UNITED STATES ARISING OUT OF CERTAIN ERRONEOUS PAYMENTS

The bill (H.R. 7614) to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

EFFECT OF CONTRIBUTORY NEGLIGENCE ON CLAIMS INVOLVING MEMBERS OF THE NATIONAL GUARD

The bill (H.R. 7616) to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard was considered, ordered to a third reading, read the third time, and passed.

PREWAR JAPANESE BANK CLAIMANTS

The bill (H.R. 8215) to provide relief for certain prewar Japanese bank claimants was announced as next in order.

Mr. MANSFIELD. Mr. President, may I say in this respect that I am delighted that justice, such as it is in this particular case, is, at long last, coming into being.

This is another indication of the most difficult and uncalled for treatment we accorded to fellow citizens of Japanese descent at the time of the outbreak of World War II. All countries—as do all men—have events in their past of which they are not proud. The events at the time of the outbreak of World War II with respect to the Americans of Japanese ancestry are one of the most nefarious in our history. There is no way now to undo those events, nor to even make fair compensation; it is only to never forget so that never will they be repeated.

The bill (H.R. 8215) was considered, ordered to a third reading, read the third time, and passed.

WALTER EDUARD KOENIG

The bill (H.R. 14173) for the relief of Walter Eduard Koenig was considered, ordered to a third reading, read the third time, and passed.

RICHARD L. KRZYZANOWSKI

The bill (H.R. 15865) for the relief of Richard L. Krzyzanowski was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1049, S. 3970. I do this so that it will be the pending business.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3970, to establish a Council of Consumer Advisers in the executive office of the President, to establish an Independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

THE PURCHASE OF U.S. GRAIN BY THE SOVIET UNION

Mr. HARRY F. BYRD, JR. Mr. President, on another subject, I have had a great deal of correspondence seeking the text of the agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics with respect to the purchase of grains by the Soviet Union in the United States and credit to be made available by the United States. I have the text of this agreement. I also have the Russian text, but I will not ask that that be placed in the RECORD, but at an appropriate later time I will ask that the text of this agreement be published in the RECORD.

I will comment on one item, that the interest rate for the purchases under this agreement shall be 6⅛ percent.

I also have a statement, a letter of understanding, written by the head of the U.S.S.R. Government delegation to the American negotiators, and also a letter to the first deputy minister from the heads of the U.S. Government delegation; namely, Secretary Peterson and Secretary Butz.

I note also, Mr. President, that the U.S. News & World Report of September 25, 1972, carried this item:

Russia, which just bought massive quantities of grain from the U.S. to alleviate domestic shortages, is shipping wheat to North Vietnam. Intelligence sources say four Russian ships recently unloaded supplies of wheat at the Chinese port of Ch'in-Chou, to be moved overland to North Vietnam, avoiding the U.S. naval blockade.

I would think that the Defense Department would want to look into this matter and determine whether it is wise for the United States to indirectly supply wheat to a country with which the United States is at war.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the text of the agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics with respect to the purchases of grain by the Soviet Union in the United States with credit to be made available by the United States.

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

AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET GOVERNMENT

The Government of the United States of America (USA) and the Government of the Union of Soviet Socialist Republics (USSR) have agreed as follows:

ARTICLE 1

1. The Government of the USA through its Commodity Credit Corporation's Export Credit Sales Program hereby makes available a total amount of US $750 million credit for financing the payment for USA grown grains (at buyer's option—wheat, corn, barley, sorghum, rye, oats) purchased by the USSR in the USA under this Agreement. Such total amount may be increased by the USA.

2. The USSR through its foreign trade organizations shall purchase from private United States exporters not less than US $750 million port value of such grains (at buyer's option—wheat, corn, barley, sorghum, rye, oats) for delivery during the three-year period August 1, 1972, through July 31, 1975, and of such amount not less than US $200 million shall be purchased for delivery prior to August 1, 1973. In case of purchases of such grains for cash for delivery during the period of August 1, 1972, through July 31, 1975, the U.S. dollar amount of such purchases shall be counted as if they were made on credit terms under this Agreement.

3. The following provisions shall apply with respect to the credit refered to in Section 1 of this Article 1.

3.1 It shall continue to be available, if not previously exhausted, for deliveries made not later than July 31, 1975.

3.2 The total amount of credit outstanding at one time shall not exceed US $500 million.

3.3 Delivery for purchases shall be F.A.S. or F.O.B. port of export and interest shall run from date of delivery. The date of delivery shall be the on-board date of the ocean bill of lading.

3.4 The principal and interest for credit arising under each delivery shall be payable by the USSR as follows: one-third of the principal annually, plus accrued interest on the outstanding principal balance to the date of each principal payment.

3.5 The amount of credit for each delivery will be limited to the United States port value of the commodity, without ocean freight, insurance, or other charges or costs.

3.6 The interest rate for purchases under this Agreement for which delivery is made not later than March 31, 1973, shall be 6⅛ percent per annum on that portion of the obligation confirmed by a USA bank. This rate of interest for that portion of the obligation confirmed by a USA bank shall be applicable during the whole three-year period for repayment of the credit which arises under each delivery made not later than March 31, 1973.

ARTICLE 2

This agreement shall enter into force from the day of its signing and shall remain valid until all the obligations arising from it for both sides are fulfilled.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that a text of a letter from the head of the U.S.S.R. Government delegation to the American negotiators be printed in the RECORD.

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

WASHINGTON, D.C.,
July 3, 1972.

Hon. PETER G. PETERSON,
Hon. EARL L. BUTZ,
Heads of the U.S. Government Delegation, Washington, D.C.

DEAR SIRS: In connection with the signing today of the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America with respect to purchase of grains by the Soviet Union in the United States and credit to be made available by the United States, I have the honor to confirm the understanding on interpretation reached between us that:

1. As to matters not covered in the above Agreement, the credits for grain purchases under the Export Credit Sales Program will be governed by the "Regulations Covering Export Financing of Sales of Agricultural Commodities under the Commodity Credit Corporation Export Credit Sales Program (GSM-4)" effective in the USA on the day of signing this Agreement.

2. Grains purchased under the above Agreement will be consumed primarily in the USSR. However, the USSR will have the right to divert some portion of the grain for consumption in European countries presently full members of the Council for Mutual Economic Assistance.

Accept, Sirs, the assurances of my highest consideration.

M. KUZMIN,
Head of the U.S.S.R. Government Delegation.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the text of a letter from the heads of the United States Government delegation to the head of the U.S.S.R. Government delegation be printed in the RECORD.

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

WASHINGTON, D.C.,
July 8, 1972.

Hon. M. R. KUZMIN,
Head of the U.S.S.R. Government Delegation, Washington, D.C.

DEAR MR. FIRST DEPUTY MINISTER: In connection with signing today of the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics with respect to purchases of grains by the Soviet Union in the United States and credit to be made available by the United States, we have the honor to confirm the understanding on interpretation reached between us that:

1. As to matters not covered in the above Agreement, the credits for grain purchases under the Export Credit Sales Program shall be governed by the "Regulations Covering Export Financing of Sales of Agricultural Commodities under the Commodity Credit Corporation Export Credit Sales Program (GSM-4)" effective in the USA on the day of signing this Agreement.

2. Grains purchased under the above Agreement shall be consumed primarily in the USSR. However the USSR shall have the right to divert some portion of the grain for consumption in European countries presently full members of the Council for Mutual Economic Assistance.

Please accept, Mr. First Deputy Minister, the assurances of our highest consideration.

PETER G. PETERSON,
EARL L. BUTZ,
Heads of the USA Government Delegation.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the article from the U.S. News & World Report of September 25, 1972, concerning

the shipment by Russia of wheat to North Vietnam be printed in the RECORD.

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

WHEAT FOR HANOI

Russia, having just bought massive quantities of grain from the U.S. to alleviate domestic shortages, is shipping wheat to North Vietnam. Intelligence sources say four Russian ships recently unloaded supplies of wheat at the Chinese port of Ch'in-Chou, to be moved overland to North Vietnam, avoiding the U.S. naval blockage.

Mr. HARRY F. BYRD, JR. Mr. President, an editorial was published in the Richmond Times-Dispatch of September 17, 1972, captioned "A Big Deal: Too Big?" This editorial is, in my judgment, a very well reasoned editorial concerning various negotiations between the American Government and the Government of the Union of the Soviet Socialist Republics. It does not oppose the negotiations. However, it does raise significant questions. I think it is worthwhile for the CONGRESSIONAL RECORD to print this editorial from the Richmond Times-Dispatch.

I ask unanimous consent that the editorial to which I have referred be printed in the RECORD.

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

[From the Richmond Times-Dispatch, Sept. 17, 1972]

A BIG DEAL: TOO BIG?

It now appears almost inevitable that within several weeks the United States and Soviet Russia will conclude a trade deal of a magnitude that would have been hard to imagine not long ago when the Cold War was the pervasive concern of the two superpowers.

And as history's penchant for upside-down irony would have it, it is the old Cold Warrior supreme of the 1950s—Richard M. Nixon—who is paving the way to wide commercial dealings with the Communist world.

Though details are skimpy, we are being asked to envision: the Soviets paying off their long overdue Lend-Lease debt to the U.S. for World War II aid, albeit in reduced sum and over a stretched-out period of perhaps 30 years; Import-Export Bank credits to assist the Russians in "catching up" with the West in computers, electronics, and industrial plant design; American engineers and technologists out in Siberia helping the Russians develop their vast reserves of natural gas and oil, some of which supposedly will eventually help alleviate shortages in the U.S.; American corporations opening branch offices in Moscow and American executives living it up in posh American-built hotels affording a scenic view of the Kremlin; and a possible confering upon Soviet exports the same favorable tariff consideration goods from our allies receive.

Already known—and rapidly developing into a major election-year controversy—is the giant July 8 deal under which the Russians promised to buy at least $750 million of American grain over the next three years. So hungry were the Russians (so dismal the failures of their collectivized agricultural system) that $1 billion worth had actually been purchased by the U.S.S.R. by the end of August. Angling for the Midwest farm vote, Sen. George S. McGovern is trying to make the case that the Administration deliberately tipped U.S. grain exporters to the impending Russian deal so they could buy up huge quantities of wheat at low prices from farmers and make a handsome windfall profit—at the expense of farmers. A case for an ulterior motive has yet to be made; the indication at present is that the Administration itself was surprised at how voraciously the Russians would snap up the wheat and corn and thereby drive commodity prices skyhigh.

But, as laudable as the goal of expanded East-West commerce may be in principle, some hard questions ought to be asked about the implications of vastly-expanded Soviet-American trade. McGovern isn't asking the key questions.

The primary advantage to the U.S. seems to be the opportunity to reduce the nation's staggering trade deficit, which totaled $2 billion in the second quarter of 1972. But the advantages to the Russians would seem to be far more extensive: U.S. help in bailing out a notoriously inefficient food production system; U.S. help in acquiring sophisticated computer and technological know-how to reduce the Soviet lag in this area (are we to forget that a key argument for SALT was that U.S. technological superiority would counterbalance U.S. numerical inferiority in weaponry?); U.S. help in tapping undeveloped natural resources, and so on. In short, will the U.S. get even approximately as much as it is giving?

Some cite the swap of American grain for Russian natural gas and oil as "mutually advantageous"? But will it be? Will it serve the national interest to develop a growing dependence on Communist Russia for vital energy needs?

Is Vietnam at the bottom of it all? Is the idea to buy Russian cooperation in ending the war by dangling juicy trade plums before Chairman Brezhnev's eyes? As ardently as peace is to be desired, can we expect the Soviets to "deliver" on Vietnam? Can they deliver, in view of North Vietnam's strident obsession with total conquest? Even if they can deliver, will the national interest be served in the long run if the result is to enable Russia to consolidate its economic and military power?

Henry Kissinger's mysterious comings and goings—to Paris, to Moscow, back to Paris for still more private talks with Le Duc Tho of Hanoi's Politburo—strongly smack of a Vietnam connection. No doubt most Americans can understand the sensitive nature of such discussions, and pray an honorable peace will be the outcome. But at some point the American public is due an honest explanation just how the much-touted East-West trade splurge is going to benefit this nation over the years at least as much as it benefits the Communist world.

Mr. HARRY F. BYRD, JR. Mr. President, I yield the floor.

THE COST OF HEALTH CARE

Mr. STENNIS. Mr. President, I was detained on important matters. Even though I tried to get to the floor in time to vote on the health maintenance organization bill, I missed the vote by a few minutes.

Mr. President, I am interested in the bill and will follow the consideration of it. I am concerned about the cost of health care to American people. I realize that something must be done.

We had rather extensive hearings this year regarding the need for medical command doctors in the military services. And we ended that consideration by establishing a medical school so as to have a better chance to get doctors for our military services in future years.

However, I had not concluded my thoughts about the merits of the bill. If I had been here, I would have cast my vote against the passage of the bill at this time, not that I am against the idea of some programs, but because we are adding billions and billions of dollars every few days to these programs that will have to be financed within the next few years. And they total in the tens, twenties, and forties of billions of dollars for new programs. And we are not meeting our obligation to see that the revenues come in.

Mr. President, I have just decided that more and more of us will have to slow down and take a second look. However, I am vitally interested in the subject matter of the bill. And if it passes with some moderation, we can use a trial run maybe with limited appropriations. However, I think that we cannot keep on just taking the lid off and taking someone's estimate of what it will take to do these things and then authorize billions and billions of dollars of funds.

Mr. HARRY F. BYRD, JR. Mr. President, the comments of the Senator from Mississippi are in accord with the views of the Senator from Virginia.

As the Senator from Mississippi has said, it is important that Congress explore the methods of being helpful in the medical field. I think it is a matter of great importance to the American people. However, I think we also must be aware that Congress is continuing to add more and more new programs, and very costly programs in the Government.

The measure we passed today authorizes $5.1 billion over 3 years. We passed one last week which would spend $30 billion over 5 years. And we are doing all of this and piling new and additional programs on top of what we already have.

There is no effort or recommendation made by any source to eliminate some of the older programs to make room for newer programs.

I have reached the firm conclusion, as has been expressed by the able Senator from Mississippi, that while I would prefer to support and vote for many of the programs which have been offered to the Senate in the way of new spending, I feel that the time has come when we in the Congress must realize that there is only one place the Government can get the money, and that is out of the pockets of the wage earners. And the wage earners will be paying for all of these spending programs that Congress has enacted either by paying more taxes or by more inflation or both.

Mr. HANSEN. Mr. President, may I say that I agree very much with the remarks of my two friends, the Senator from Mississippi and the Senator from Virginia.

As a member of the Finance Committee, we have been considering a number of health proposals which seem to be, as projections are made, extremely costly.

I think this is an area where a great deal of money could easily be squandered and wasted, not that some benefits, and perhaps in many cases some slight benefits, might not occur.

Mr. President, as I recall the hearings before our committee, it was pointed out that some of the people in this country who are receiving medical aid under the various programs that are provided, of-

tentimes at no cost to the recipients by the Government, result in those who make no contributions receiving better medical attention than is within the reach or the grasp of others to pay for it themselves.

They are called upon to contribute taxes, any variety of taxes, and we have the anomalous situation of wage earners, who are self-supporting, assuming the full responsibility for their families, being medical service comparable to that which is given to others who make no financial contribution at all.

I do not mean to imply by what I now say that I am against doing the very best job we can as representatives in the legislative branch of Government in seeing that we provide better care for everyone, consistent with our ability as a nation to pay for those programs, because it could so easily be that we spend more money than we have, which as a government we have been doing for a good many years now. The concomitant inflation which results denies more and more of our elderly citizens, those on social security, those on pensions, and those on annuities of one kind or another, the ability to buy those things which they had a right to feel would have been within their grasp earlier, as they were wage-earning and income-earning members of society, and contributing in those years significant amounts of tax money to the Government.

So I want to say that I agree wholeheartedly with the distinguished Senator from Mississippi and the distinguished Senator from Virginia in expressing concern and alarm over the willingness of this body to adopt almost any sort of proposal, and I do not speak specifically of the one passed earlier this afternoon. But in all candor it can be said that all too few of us understand what may be encompassed in these enormous outlays of capital in the legislation we pass. We do not take the time to make the comparison between one proposal and another proposal, nor do we seek out and heed the advice of professionals whose experience and ability should be worth something to us in knowing how best to meet problems and to provide better health care to our people.

I voted against the proposal. The Senator from Mississippi was denied the opportunity to vote, because of other important duties he was performing at the time and which occasioned his delay beyond the point to vote, but I appreciate what he said and I share his point of view and the point of view of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Wyoming. I have the feeling that more and more Senators are becoming concerned as to the Nation's financial position. I share the view expressed a moment ago by the Senator from Wyoming as to whether these new programs we are initiating here, very costly programs, really have been gone into carefully and whether we, as Members of Congress, really know the full cost of what we are doing.

One of the most dramatic examples, and not an isolated case, is what happened in 1967, when Congress passed legislation in regard to social service programs, to provide Federal matching. It was an appealing program, and the cost was put at $40 million a year. Here we are in 1972 and the record shows that the States now are requesting $4.8 billion for this social service program. That is rather dramatic evidence about how these spending programs can get out of hand and how little we know about them, and how little concerned we seem to be when we enact them. They sound good.

Every Member of the Senate and every Member of Congress wants to try to be helpful to the people of our Nation, but I question whether we are really helping the people when we pile huge spending programs on top of huge spending programs and then go back to the people themselves and take out of the pockets of wage earners, and that is the only place to get the money, the money to pay for the programs, and if they are not paid for in that way, they are paid for through inflation, which hits hardest in the long run on the low-income people and the elderly who are on fixed incomes.

Mr. HANSEN. Mr. President, whether it is through taxes or inflation, it still comes out of the pockets of the people. Is that not true?

Mr. HARRY F. BYRD, JR. The Senator is so right. Whether it comes out of the pockets of the people by heavier taxes or through inflation, by prices the individual has to pay for the necessities of life, in any case it comes out of the pockets of the wage earners of this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADDRESS BY SECRETARY OF COMMERCE PETER G. PETERSON BEFORE THE PITTSBURGH ECONOMIC CLUB

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Senator from Pennsylvania (Mr. SCOTT), including a speech given by Secretary of Commerce Peter G. Peterson.

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

STATEMENT BY SENATOR SCOTT

Secretary of Commerce Peter G. Peterson has indicated that Senator McGovern's economic plans, if they can be called that, advocate short term employment gains at the expense of long-run joblessness and inflation. Speaking before the Pittsburgh Economic Club yesterday, Secretary Peterson scored some telling points which are worthy of review by other members of the Senate.

CAN MCGEORGE GOVERN?

Senator McGovern bases his economic thinking on the vision of a vast pot of gold among corporations and individuals just waiting to be tapped. Corporations and individuals, he alleges, are getting much more than their fair share, and that share should be redistributed to those who need it most.

Let's follow this fiscal rainbow and see if we can find the pot of gold. A lot of people—Senator McGovern is only one—think that it is an enormous pot. Surveys indicate that Americans believe U.S. corporations on average make a 28 cent profit after taxes on each dollar of sales. Americans feel this is unfair, and that a fair after tax return would be 10 cents on the dollar. To me this is absolutely astounding. People believe companies are making 28 cents after tax on each dollar of sales, when the actual figure is about 4 cents on the dollar—one-seventh of what they believe it to be and less than half of what they think would be fair.

Is it any wonder that some people believe there's a huge corporate pot of gold? At 28 cents on the dollar, corporate profits would be $300 billion. Even at the "fair" return of 10 cents on the dollar, profits would be over $100 billion after taxes. That's a lot of income to redistribute. It's no wonder that some people think companies ought to lose accelerated depreciation and investment tax credits, that they ought to be taxed more, that they ought to be forced to cut their prices, that they ought to pay more in wages, that they ought to absorb all the costs of pollution, and so on.

But, unfortunately, the pot of gold isn't there. Companies don't make 28 cents on the dollar, or even ten cents on the dollar. They make more like four cents. Total corporate profits are about $47 billion after taxes—and the taxes are high. U.S. corporations pay around 45 percent of their profits in taxes—higher than in any other major industrial nation.

So where is that pot of gold? Is it in the hands of the wealthy? Well there is a pot there, but it isn't nearly as large as some people seem to think. The total income of all people earning more than $100,000 per year accounts for two percent of the income of all individuals . . . or about $14 billion. If the government were to have a 100 percent tax—if it were to confiscate all this income—we would have only about $70 per person to redistribute among all other Americans.

Even though there isn't an overflowing pot of gold, individual or corporate, suppose we try to redistribute it anyway. Senator McGovern feels that this could be done to the advantage of the nation without harming the growth prospects of the economy. We could cut all the tax "loopholes", we could remove investment incentives, and we could substitute for them increased federal spending to spur consumption.

I don't think this will work. It is "cart-before-the-horse" economics. But you don't have to take my word for it. In a recent poll of the National Association of Business Economists, four times as many economists felt that real growth would be smaller under Senator McGovern's proposals than it would be under a continuation of this Administration. One of the most widely-renowned private economic services reached the same conclusion, with their models showing reduced levels of investment and higher levels of inflation under the Senator's proposals.

Today the United States is near the bottom of the industrial nations in the percent of its national income it sets aside as an investment in the future. Investment is already too low. Billions are needed for new machines and new plants to allow us to compete with other nations and to allow us to produce more so we can earn more. Billions are needed for research and development into better ways of using our natural resources, better ways of producing products, and better and more economic uses of all our economic resources—especially people. No one has to vote these billions. Individuals and

businesses will save and invest these billions on their own if we don't destroy the incentive.

It is not just investment in capital we need to make. It is also investment in people. We need to create up to 20 million jobs just in this decade. These must be meaningful, satisfying, lasting and productive jobs. These jobs won't just happen. And they won't be created by the Government. They must be created by private investment—an investment fueled by each of us being able to produce more, earn more and save more. This is the complex process that concerns all of us.

Senator McGovern's approaches, while they may still be presumed to be in a state of rapid evolution, aren't going to further this process. His approaches seem preoccupied with today. But today must not be enhanced at the expense of all our tomorrows.

There aren't any get-rich-quick schemes that will give this nation the quality of life it wants. We can't consume more today and expect a better tomorrow. There just aren't any simple solutions. Well over half of the so-called tax loopholes, for example, don't benefit companies or the wealthy; but instead go to benefit all Americans in such things as paying their medical bills, paying for their houses, for their education, and for their retirement. The Senator may be gunning for the fat cat, but he's got a thin cat in his sights.

It is important to understand that when we speak of international competitiveness, we are not speaking of some abstract academic concern. This is not just a matter of national or corporate one-upsmanship. This boils down to the very basic matter of who has jobs and what they get paid for them. No one has a greater stake in this country's competitiveness than the American workers. Through the ups and downs of competition with our trade partners, he is the man on the long end of the see-saw.

We are on a demanding and competitive voyage and we are making headway. One used to hear it said of voyages that getting there was half the fun. Senator McGovern apparently feels that the fun is getting half way there. For he would arrest the progress we have made to date.

The prospect of future wealth is the very essence of our incentive system. It is what motivates the poor man to enter the middle class, and it is what pushes the middle class further up the economic ladder. Moreover, it provides more than simple incentive; it provides hope, it gives purpose and it is the stuff of which dreams are made.

So when Senator McGovern proposes that we attack the rich by taxing their wealth away, what is he really doing? He may reduce the net worth of a handful of rich individuals, but by cutting the top off the economic incentive structure, he will take the meaning out of the lives of millions and millions of working Americans.

He is telling them, in effect, to go about their daily tasks with the solace that, while they will never be rich, neither will anyone else.

Finally, Senator McGovern has sought to appeal to the American public's preference for a free and open economy by promising repeal of our current system of wage and price controls.

In advocating removal of controls, Senator McGovern has badly misread the sophistication of the average American. The public opinion polls indicate strong grass roots support for continuing the controls until our inflation goals are met.

Taken in conjunction with the enormous budgetary deficits which would result from his spending proposals, the decision to drop controls in favor of flap-jaw admonishment is more than fiscal permissiveness—it is an outright license for inflation.

With rampant inflation, the first to suffer will be those of fixed incomes. They will be followed by those who have jobs in export industries and those in import-competing industries. As inflation is reflected in soaring interest rates the housing market will go flat and workers in the construction industry will be laid off.

In the end, everyone will suffer when the government finally bites the bullet and pays the terrible price in joblessness that has always accompanied the correction of inflation.

It will, of course, not do you, or this Administration or anyone else any good simply to observe smugly that Senator McGovern's proposals are unrealistic; that their consequences would be disastrous and that their public acceptance—such as it is—is grounded in misunderstanding. In light of them, however, I think it is fair to ask," can McGeorge govern?"

Senator McGovern is fond of recounting his war-time experiences as a bomber pilot. If he were a pilot today and submitted flight plans comparable to the economic game plans he has put forward, he'd have every air-traffic controller in the country biting his nails down to the quick. Moreover, this is no ordinary flight he has in mind. He wants 210 million Americans in the plane with him.

QUORUM CALL

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECOGNITION OF SENATORS STEVENSON, MONDALE, MOSS, KENNEDY, FANNIN, WEICKER, AND SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Senators tomorrow prior to the conduct of routine morning business be revised and that the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. STEVENSON, Mr. MONDALE, Mr. Moss, Mr. KENNEDY, Mr. FANNIN, Mr. WEICKER, and Mr. SCOTT.

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

ORDER FOR SENATE TO PROCEED TO THE CONSIDERATION OF S. 2280 FOLLOWING THE DISPOSITION OF S. 555

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 555 tomorrow the Senate proceed to the consideration of S. 2280, dealing with the unlawful seizure of aircraft.

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

ORDER FOR S. 3970 TO BE TEMPORARILY LAID ASIDE TOMORROW UNTIL THE DISPOSITION OF S. 2280

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3970, which will be the unfinished business tomorrow, be considered to be laid aside temporarily at the conclusion of routine morning business tomorrow, and that it remain temporarily laid aside until the disposition of S. 2280 or at the discretion of the distinguished majority leader or his designee.

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

ORDER TO PRINT H.R. 15376 AS PASSED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 15376, which was passed by the Senate yesterday be printed as passed.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. The following Senators will be recognized, each in the order stated and for not to exceed 15 minutes: Mr. STEVENSON, Mr. MONDALE, Mr. Moss, Mr. KENNEDY, Mr. FANNIN, Mr. WEICKER, and Mr. SCOTT; after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes; at the conclusion of which the Senate will take up S. 555, to authorize the establishment of the older workers program, under a time limitation, and there will be a yea-and-nay vote on passage of that bill.

After S. 555 has been disposed of, the Senate will take up S. 2280, dealing with the unlawful seizure of aircraft, with a time limitation thereon and a yea-and-nay vote on final passage.

On the disposition of S. 2280, the Senate will return to the consideration of the then unfinished business, S. 3970, the Council of Consumer Advisers bill. Yea-and-nay votes are expected.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock a.m. tomorrow.

The motion was agreed to; and at 6:33 p.m. the Senate adjourned until tomorrow, Thursday, September 21, 1972, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 20, 1972:

DIPLOMATIC AND FOREIGN SERVICE

Marion H. Smoak, of South Carolina, Acting Chief of Protocol for the White House, for the rank of Ambassador.

Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.